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UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

ARC ECOLOGY, a California Non-Profit
 Organization

Plaintiff,

vs.

SAN FRANCISCO REDEVELOPMENT
 AGENCY, FRED BLACKWELL, in his
 capacity as Executive Director of San
 Francisco Redevelopment Agency, DOES 1-
 100 INCLUSIVE

Defendants.

Case No.

C10-05523

**COMPLAINT FOR INJUNCTIVE AND
 DECLARATORY RELIEF**

Date: _____
 Time: _____
 Judge: _____

DEMAND FOR JURY TRIAL

Plaintiff, Arc Ecology, in support of its Complaint for Injunctive and Declaratory Relief,
 alleges the following facts:

INTRODUCTION

1. This civil rights complaint arises from the viewpoint-discriminatory decision of the San Francisco Redevelopment Commission ("Commission") not to re-select Arc Ecology ("Arc") for an independent environmental consulting contract it has held since 2006 and for which it was the most qualified candidate. In so doing, the Commission (1) imposed an unconstitutional condition on the contract-awarding process; and (2) retaliated against Arc for the past exercise of its First Amendment rights. Without the Court's intervention, the contract will be awarded to another firm on December 7, 2010.

2. Arc Ecology has contracted with the San Francisco Redevelopment Agency ("SFRA") to provide independent environmental analysis since 2006. At the end of the term of the contract, Arc

1 was encouraged to apply for re-selection in an open Request for Proposals (“RFP”), which it won
2 in April 2010. Arc Ecology was recommended by an independent selection panel, unanimously
3 endorsed by the Shipyard Citizens Advisory Committee (“CAC”) and recommended by SFRA staff
4 to the Redevelopment Commission.

5 3. Nonetheless, on September 21, 2010, the Commission voted to deny Arc the contract, thus
6 leveraging the contract to silence Arc’s criticism regarding other aspects of development of the
7 Bayview-Hunters Point neighborhood. Specifically, Arc was not re-selected for the contract because
8 it engaged in the public debate regarding the sale of California State park lands at the Candlestick
9 Point State Recreational Area and a proposed bridge over the Yosemite Slough. These issues fell
10 entirely outside the scope of Arc’s contract. Arc’s participation in and commentary regarding the
11 debates was not funded or in any way related to the contract. The Commission in effect imposed an
12 additional condition of the contract, whereby one who has voiced disfavored opinions about matters
13 of public concern would be disfavored in the selection process. The Commission’s actions thus
14 violated Arc’s First Amendment rights of speech and petition.

15 4. On-the-record statements by Redevelopment Commission officials and other evidence
16 confirm that Arc Ecology was denied the contract solely because of its protected speech to the
17 Bayview-Hunters Point community, as well as to government officials and the greater public. During
18 the hearing on whether to re-select Arc for the contract, one Commissioner accused Arc of “talking
19 against the basic program that we’re pushing . . . talking against the basic program that this
20 Redevelopment has been trying to get in that Shipyard, on the bridge and many other things.”
21 Another accused Arc of “bit[ing] the hand that feeds” it. And a third implied that the decision not
22 to re-select Arc for the contract was made “in order for us to have less dissension and less
23 controversy with all of this development that we have to do,” because it was “important that
24 everybody on the team be on the same page.”

25 5. The First Amendment prohibits the government from requiring one to sacrifice a
26 constitutional right to private speech in order to qualify for a governmental contract. The Court must
27 thus act to ensure that the contract decision be made on a viewpoint-neutral basis before the contract
28 is awarded to Circle Point on December 7, 2010.

JURISDICTION

6. This is an action under the Constitution, 42 U.S.C. § 1983 ("Section 1983"), and the Federal Declaratory Judgment Act, 28 U.S.C. § 2201-2202, for declaratory, injunctive, and other appropriate relief enjoining Defendants SFRA and SFRA Executive Director Fred Blackwell ("Blackwell") from the awarding a contract to anyone other than Plaintiff Arc Ecology ("Arc"), from which the contract was improperly withheld. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343 and 2201-2202. SFRA is an agency that exists solely to perform certain functions exclusively for and by authorization of the City and County of San Francisco. Its principle place of operations is at One South Van Ness Avenue, 5th Floor, in San Francisco, California. SFRA's Executive Director Fred Blackwell is also based at One South Van Ness Avenue. The acts alleged herein occurred or will occur in San Francisco, California.

INTRADISTRICT ASSIGNMENT AND VENUE

7. This Court has Intradistrict Assignment jurisdiction pursuant to L.R. §§ 3-2(c) and (d).

8. The unlawful acts alleged herein occurred in the City and County of San Francisco, California, which is within this judicial district. Venue is appropriate in this district pursuant to 28 U.S.C. §§ 1391(e).

PARTIES

9. Plaintiff Arc Ecology is an Internal Revenue Code 501(c)(3) environmental research and consulting firm. Arc Ecology has operated in the Bayview-Hunters Point neighborhood of San Francisco since 1984. Arc Ecology is located at 4634 3rd Street in the Bayview-Hunters Point neighborhood of San Francisco. Its Executive Director is Saul Bloom ("Bloom").

10. Defendant SFRA is the executive body charged with executing policy determinations of the San Francisco Redevelopment Commission ("Commission").

11. Defendant Fred Blackwell is the Executive Director of the SFRA. He is responsible for implementing all activities authorized in redevelopment plans and for other special projects in accordance with policies defined by the Commission. He is sued in his official capacity.

12. Defendants Does 1-100, on information and belief, are each responsible in some manner for

the injuries and damages sustained by Plaintiff as set forth herein. Plaintiff is further informed and believes, and thereon alleges that at all material times these Defendants owned, operated, managed, directed, controlled, and/or employed other defendants in this action. The true names and capacities of these Defendants are unknown to Plaintiff, who therefore sue said Defendants by such fictitious names, and Plaintiff will seek leave to amend this complaint to show their true names and capacities when the same are ascertained. Does are sued in their official capacities.

STATEMENT OF FACTS

I. Despite Being the Most Qualified Contractor, Arc Ecology Is Rejected Based on Political Retaliation

13. Arc Ecology has contracted with the SFRA to provide independent environmental and other analysis since 2006.¹ [Declaration of Saul Bloom In Support of Temporary Restraining Order and Preliminary Injunction (“Bloom Decl.”) ¶ 15] At the end of the term of the contract, Arc was encouraged to apply for re-selection in an open Request for Proposals (“RFP”), which it won in April 2010. [Bloom Decl. ¶ 27] Arc Ecology was recommended by an independent selection panel, unanimously endorsed by the Shipyard Citizens Advisory Committee (“CAC”) and recommended by SFRA staff to the Redevelopment Commission. [Bloom Decl. ¶ 31]

14. Nonetheless, on September 21, 2010, the Commission refused to award the contract to Arc. [Audio Transcription of Meeting of the Redevelopment Agency of the City and County of San Francisco Opening of Meeting and Agenda Item C, September 21, 2010 (“Transcript”) 56:1-16]² The Commission so acted because Arc spoke out on other aspects of development of the Bayview-Hunters Point neighborhood. [Bloom Decl. ¶ 31, Transcript 4:23-11:16; 45:4-12; 46:8-20; 47:8-9; 48:25-49:1-14; 52:9-54:14; 54:19-25; 55:1-2; 56:6; 56:7; 56:13-14; 56:17-57:10] Specifically, Arc was not re-selected for the contract because it engaged in the public debate regarding the sale of

¹ Specifically, Arc Ecology was contracted by the SFRA and Mayor’s Office to among other things (1) design a plan for implementing ship scrapping at the Shipyard’s dry dock; (2) facilitate and provide technical support for San Francisco Supervisor Sophie Maxwell’s community focus group on the negotiation of the Conveyance Agreement; and (3) provide environmental technical, informational and educational services for the CAC and community on Shipyard cleanup. [Bloom Decl. ¶ 13]

² A copy of the transcript is attached hereto as Exhibit A. The original has been lodged with the Court.

1 California State park lands at the Candlestick Point State Recreational Area and a proposed bridge
2 over the Yosemite Slough. [Bloom Decl. ¶ 17]

3 15. The issues about which Arc exercised its rights to free speech and petition fell entirely
4 outside the scope of its contract. [Bloom Decl. ¶ 17] Arc's participation in and commentary
5 regarding the debates was not funded or in any way related to the contract. [Bloom Decl. ¶ 17]

6 16. Arc Ecology has served as an environmental watchdog on contamination characterization,
7 cleanup planning, and cleanup execution of Bay Area military bases (including the Hunters Point
8 Shipyard, The Presidio, and Treasure Island) since 1984. [Bloom Decl. ¶ 3] Of all the region's
9 installations, Arc Ecology has focused most significantly on the Hunters Point Shipyard, based on
10 Arc's determination that the surrounding community's social equity and environmental justice needs
11 are greatest. [Bloom Decl. ¶ 3]

12 17. Arc Ecology is a repository for technically accurate scientific, planning, and economic
13 development information on the cleanup and reuse of the Shipyard. [Bloom Decl. ¶ 4] As such, Arc
14 Ecology is the public interest organization of record with regard to the cleanup and reuse of the
15 Shipyard. [Bloom Decl. ¶ 4] Arc has been engaged longer, and in a more detailed and higher profile
16 fashion, than any other nonprofit in San Francisco. [Bloom Decl. ¶ 4] Arc Ecology has reviewed
17 every or almost every environmental document regarding Bayview-Hunters Point produced in the
18 past 25 years. [Bloom Decl. ¶ 4]

19 **II. Cleanup and Redevelopment of the Bayview-Hunters Point**

20 18. The Hunters Point Shipyard is composed of 500+ dry acres and a similar amount of
21 submerged lands surrounding them. [Bloom Decl. ¶ 5] It was originally divided into 6 Parcels.
22 [Bloom Decl. ¶ 5] These Parcels were ranked from A-F from cleanest to most complicated, and thus
23 most difficult to transfer. [Bloom Decl. ¶ 5] Parcel A is the Shipyard's Hill Top and South Facing
24 Slope. [Bloom Decl. ¶ 5] Facing west the Parcels run A-E clockwise, with F composed of the
25 submerged lands. [Bloom Decl. ¶ 5] Over the past decade these parcels were further subdivided.
26 [Bloom Decl. ¶ 5] The most important recently-created Parcel is Parcel G, which is the site of a
27 possible future San Francisco 49ers football stadium. [Bloom Decl. ¶ 5]

28 19. To expedite the economic redevelopment of the property, the Shipyard was divided into two

1 phases. [Bloom Decl. ¶ 6] Phase 1 was to focus on what were putatively the least contaminated, most
2 easily transferred of Shipyard properties. [Bloom Decl. ¶ 6] Phase 2 focused on the remainder.
3 [Bloom Decl. ¶ 6]

4 20. Phase 1 of the redevelopment transfers was originally composed of more than 80 acres
5 inclusive of the Shipyard's Parcels A and B1 (prime). [Bloom Decl. ¶ 7] Phase 1 now includes only
6 the roughly 60 acres of Parcel A. [Bloom Decl. ¶ 7] Parcel B1 and smaller underground utility
7 parcels were excluded due to unexpected complications with cleanup. [Bloom Decl. ¶ 7] Phase 1 will
8 be primarily focused on housing construction, though a small number of parks are also included.
9 [Bloom Decl. ¶ 7]

10 21. Arc Ecology was supportive of the Phase 1 transfer. [Bloom Decl. ¶ 8] As a sitting member
11 of the CAC, Bloom was instrumental in getting the transfer approved by the CAC, the
12 Redevelopment and Planning Commission, and the San Francisco Board of Supervisors. [Bloom
13 Decl. ¶ 8] Bloom also negotiated an extension of the public review and comment period from 45 to
14 75 days as well as the City's agreement to read the document in public line by line in order to assure
15 a full opportunity for community engagement in the decision making. [Bloom Decl. ¶ 8] Bloom also
16 helped lead the CAC effort to improve the community benefits component of the Disposition and
17 Development Agreement ("DDA") by crafting more than 70 proposed changes, of which 59 were
18 agreed to by the Mayor's Office of Economic and Workforce Development, SFRA and Lennar
19 Corporation. [Bloom Decl. ¶ 8]

20 22. Lennar is a Miami-based corporation. [Bloom Decl. ¶ 9] It is the second largest homebuilder
21 in the United States. [Bloom Decl. ¶ 9] Lennar does a substantial amount of military base
22 development in California. [Bloom Decl. ¶ 9] Lennar is the master developer in the 700-acre
23 Shipyard-Candlestick redevelopment project, as well as the master developer for San Francisco's
24 other large military base conversion project, Treasure and Yerba Buena Islands. [Bloom Decl. ¶ 9]
25 Treasure and Yerba Buena Islands constitute a similar 700-acre site to the Candlestick Shipyard
26 development. [Bloom Decl. ¶ 9] The two projects together make Lennar the largest and most
27 powerful land developer in San Francisco. [Bloom Decl. ¶ 9] Lennar holds the exclusive
28

development contract, along with the SFRA, on Phase 1 and Phase 2 of the Shipyard-Candlestick redevelopment. [Bloom Decl. ¶ 9]

23. Phase 1 is covered by the terms of the 2004 DDA between Lennar and the SFRA. [Bloom Decl. at ¶ 10]

A. Arc Ecology's Contractual Role as Independent Watchdog

24. In February 2004, the CAC passed a resolution asking the SFRA for its own independent environmental consultant to assist the committee with reviewing and understanding the Navy's cleanup of the Shipyard and that cleanup's relationship with reuse. [Bloom Decl. ¶ 15] In September 2005, in response to the CAC's request, the Agency released a Request for Qualifications ("RFQ") soliciting the services of an entity to provide environmental technical, educational and outreach services. [Bloom Decl. ¶ 15] Arc Ecology was awarded the contract in March of 2006 and that contract was signed in May of 2006. [Bloom Decl. ¶ 15] The contract provided environmental outreach and informational services to the CAC and broader Bayview-Hunters Point community regarding: (1) the remediation of Shipyard parcels (or portions thereof) by the Navy and the subsequent transfer of land to the Agency and (2) environmental issues that arise regarding Phase 1 development currently underway by Lennar-BVHP, LLC, a subsidiary of Lennar. [Bloom Decl. ¶ 15] All of these responsibilities with regard to redevelopment activities fell within the scope of Phase 1. [Bloom Decl. ¶ 15] None of them fell within the scope of Phase 2. [Bloom Decl. ¶ 15]

25. Arc Ecology's contract calls for independent analysis. [Bloom Decl. ¶ 15-16, 37] The SFRA contracts with the San Francisco Department of Health to provide it with environmental review and analysis on behalf of the agency. [Bloom Decl. ¶ 12] By contrast, the SFRA contracted with Arc Ecology to independently review all of the work of all of the reviewing agencies with an emphasis on CAC, and therefore the public interest of the Bayview-Hunters Point community. [Bloom Decl. ¶ 12]

26. Specifically, Arc Ecology was contracted by the SFRA and Mayor's Office to, among other things, (1) design a plan for implementing ship scrapping at the Shipyard's dry dock; (2) facilitate and provide technical support for San Francisco Supervisor Sophie Maxwell's community focus group on the negotiation of the Conveyance Agreement; and (3) provide environmental technical,

1 informational and educational services for the CAC and community on Shipyard cleanup. [Bloom
2 Decl. ¶ 13]

3 27. In the implementation of this contract Arc Ecology continued to independently monitor the
4 Navy's remedial activities and the environmental issues that arose from Shipyard development;
5 provided community interest perspective to the negotiations over remedial solutions and shipyard
6 development; and informed and engaged the CAC, the Bayview-Hunters Point community, and the
7 broader public in decision-making surrounding these activities. [Bloom Decl. ¶ 16] Arc was able to
8 engage the community through its various support services, which include its website
9 www.communitywindowontheshipyardcleanup.org; a community information storefront on Third
10 Street, which features a library of documents on the Shipyard; and a monthly newsletter. [Bloom
11 Decl. ¶ 16]

12 28. Arc Ecology's contractual relationship with SFRA was formed concurrent with advocacy that
13 Arc undertook outside the scope of the contract. [Bloom Decl. ¶ 13] This was done and with the full
14 knowledge of SFRA, the Mayor's Office and Lennar.³ [Bloom Decl. ¶ 13] This advocacy included
15 consistent constructive criticism of the development strategy to ensure the highest and best use of
16 the property. [Bloom Decl. ¶ 13] For example, in 2000, disagreeing with both Navy and City
17 perspectives that Bayview-Hunters Point residents would accept a lesser standard of cleanup to
18 promote job development, Arc Ecology worked with then-San Francisco Supervisor Tom
19 Ammiano's office to craft Proposition P, which sought to establish the Community Acceptance
20 Criteria for the Shipyard's cleanup. [Bloom Decl. ¶ 11] Proposition P was passed by the voters in
21 November 2000 by 87% citywide and 93% in Bayview-Hunters Point. [Bloom Decl. ¶ 11] Despite
22 objections by the Navy and continued efforts to ignore its contents by the City, the community has
23 used the Arc Ecology-authored proposition to advance efforts to improve cleanup. [Bloom Decl. ¶
24 11]

25
26 ³ Indeed, the City and other stakeholders benefitted from the relationship. [Bloom Decl. ¶
27 14] For example, in the 2004 debate over the approval of the Phase 1 DDA, a memo to the Board
28 of Supervisors from Arc Ecology helped alleviate some members' anxiety over the efficacy of
the Parcel A transfer. [Bloom Decl. ¶ 14] Arc Ecology's status as both an independent watchdog
and occasional contractor provided important credibility to the City's position. [Bloom Decl. ¶
14]

29. The City and other stakeholders benefitted from this relationship. [Bloom Decl. ¶ 14] For example, in the 2004 debate over the approval of the Phase 1 DDA, a memo to the Board of Supervisors from Arc Ecology helped alleviate some members' anxiety over the efficacy of the Parcel A transfer. [Bloom Decl. ¶ 14] Arc Ecology's status as both an independent watchdog and occasional contractor provided important credibility to the City's position. [Bloom Decl. ¶ 14]

30. The Mayor's Office and the SFRA were aware when they hired Arc that Arc had previously been engaged in a contract with CALFED⁴ to undertake studies of the Yosemite Slough Watershed, which includes Candlestick Point State Recreation Area ("CPSRA"). [Bloom Decl. ¶ 17] Moreover, in 2001 Arc gave a briefing to all relevant city construction and planning department heads on why environmental organizations believed Yosemite Slough should not be bridged. Arc Ecology had also been an advocate of expanding the Candlestick Park Recreational Area, which ultimately the Legislature authorized the Department of Parks to sell pieces of, at the City's behest, in order to develop luxury housing. [Bloom Decl. ¶ 13]

B. Arc Ecology Engages in Independent Speech and Petition Activity On Matters of Public Concern Outside the Scope of the Contract

31. While fulfilling its contract, Arc engaged in the public debate on issues that fell wholly outside its scope. [Bloom Decl. ¶ 17] Specifically, Arc engaged in the public debate regarding the sale of California State park lands at the CPSRA and a proposed bridge over the Yosemite Slough. [Bloom Decl. ¶ 17] These statements and other participation in and commentary regarding the debate were not funded or in any way related to the contract. [Bloom Decl. ¶ 17]

32. Additionally, Arc Ecology published a report entitled *Alternatives for Study* in January 2009 that contained critiques of several claims surrounding proposals for Phase 2. [Bloom Decl. ¶ 18] *Alternatives for Study* was eventually made part of the public comments portion of the Environmental Impact Report ("EIR") on Phase 2. [Bloom Decl. ¶ 18] The SFRA was the lead agency with regard to the EIR, and the document was compiled jointly with the Mayor's Office of Economic and Workforce Development ("OEWD"), City Planning Department and Lennar. [Bloom Decl. ¶ 18]

⁴ CALFED is the joint state and federal project to address the environmental health of San Francisco Bay. [Bloom Decl. ¶ 17]

33. In *Alternatives for Study*, Arc Ecology explained how it was asked by the environmental community to document the size of the taking of park lands. [Bloom Decl. ¶ 18] Arc conducted all of the mapping of the various proposed park acreage exchanges. [Bloom Decl. ¶ 19] Arc worked with members of the San Francisco Park, Recreation and Open Space Advisory Committee and Environment Commission to determine if any relevant City committee was advised regarding the plan. [Bloom Decl. ¶ 19] Arc documented through statements that there was general confusion over whether any relevant committee members had been told about the plan. [Bloom Decl. ¶ 19] Arc researched documents produced by the City and determined that while maps had been adjusted to show boundary change, the City did not openly state its intention to force the sale of park land to Lennar through a State Legislative Resolution. [Bloom Decl. ¶ 19] Arc met with representatives of the OEWD and the SFRA regarding its research and alternative development concepts that either eliminated or lessened the impacts on the State Park. [Bloom Decl. ¶ 19] State Senator Mark Leno personally contacted Bloom on his to request a briefing on the topic. [Bloom Decl. ¶ 19] A representative of Arc Ecology frequently accompanied representatives of other environmental organizations such as the Sierra Club, who had requested its assistance in meetings with State elected officials to provide technical support. [Bloom Decl. ¶ 19] Arc Ecology testified at one State Legislative hearing in opposition to the park sale and was present at all of the hearings. [Bloom Decl. ¶ 19] Arc Ecology was present at all of the City/Lennar/environmental organizational representative negotiations over the park and ultimately helped shape the final resolution of the compromise around the park land sale. [Bloom Decl. ¶ 19] Thus Arc Ecology was seen as a major player in opposing the State Legislation. [Bloom Decl. ¶ 19]

34. Arc Ecology also made a YouTube video opposing the sale of park land. [Bloom Decl. ¶ 20] Arc briefed every major news entity on the issue. [Bloom Decl. ¶ 20] And Arc noted in its media discussions that the legislatively forced sale of park land offered a way around the City electorate. [Bloom Decl. ¶ 20]

35. Eventually, the San Francisco Mayor's Office worked directly with Arc Ecology to negotiate a final resolution to the transfer of park lands with other opponents of the park land sale, including the Sierra Club, the Audubon Society and Friends of Candlestick. [Bloom Decl. ¶ 21] Additionally,

1 California Assemblymember Tom Ammiano and California State Senator Leland Yee utilized Arc's
2 work on the transfer of park lands in making their arguments against the State's legislation. [Bloom
3 Decl. ¶ 21]

4 36. *Alternatives for Study* also discussed the plans to bridge the Yosemite Slough. [Bloom Decl.
5 at ¶ 22] Bridging Yosemite Slough has long been opposed by environmental groups: as early as
6 1997, organizations including the Sierra Club and the Audubon Society went on record as committed
7 to litigating any effort to construct one. [Bloom Decl. ¶ 22] The bridge is potentially damaging to
8 the environment and a means of encircling Bayview-Hunters Point with more freeways, particularly
9 since this bridge was first conceived of as a connecting route to a planned Southern Crossing—a
10 second bridge across the Bay connecting San Francisco with Oakland. [Bloom Decl. ¶ 22]

11 37. Arc Ecology was asked by the environmental community to provide technical support for
12 their efforts to identify the impacts of the bridge back in 1997. [Bloom Decl. ¶ 23] Arc investigated
13 and identified an alternative route to the bridge. [Bloom Decl. ¶ 23] Arc contracted with the planning
14 firm LSA Associates to evaluate the claimed benefits of the bridge as a route. [Bloom Decl. ¶ 23]
15 Arc's research showed that the bridge was insignificantly better than alternative routes while having
16 greater environmental impacts. [Bloom Decl. ¶ 23]

17 38. Arc's research was so effective that the San Francisco Mayor's Office miscast the route it
18 had provided as an alternative and then criticized it as a way of undermining Arc's commentary.
19 [Bloom Decl. ¶ 24] Ultimately Arc's work on the bridge formed the basis of the opposition
20 expressed by five of 11 members of the Board of Supervisors and three of seven members of the
21 Planning Commission to the bridge. [Bloom Decl. ¶ 24] During the January through July 2010
22 debates over the content and later the approval of the Candlestick Point Hunters Point Shipyard Draft
23 EIR and Final EIR, members of the Planning Commission and Board of Supervisors including
24 Commissioner Moore and Supervisor Eric Mar made specific positive references to Arc Ecology's
25 routing and bridge analysis. [Bloom Decl. ¶ 24]

26 39. Arc Ecology's efforts served to inform the public process in many significant ways. [Bloom
27 Decl. ¶ 24] At Supervisor Mar's request Arc Ecology provided a personal tour of the project area.
28 [Bloom Decl. ¶ 24] Supervisor Mar credited Arc's presentation of the Shipyard's pollution issue

1 during the tour with changing his opinion that the site was too contaminated to develop to one
2 supportive of the project. [Bloom Decl. ¶ 24]

3 40. At the request of Supervisor Ross Mirkarimi Arc Ecology provided a personal briefing on
4 the bridge issue. [Bloom Decl. ¶ 24] Based upon Arc's briefing Supervisor Mirkarimi was able to
5 get the Director of OEWD to confirm to the Board of Supervisors that neither the City nor Lennar
6 had conducted an economic or marketing analysis to support their argument that the construction of
7 a bridge was "fundamental to the economic success of the project." [Bloom Decl. ¶ 24]

8 41. The range of these two effects—helping one Supervisor address his concerns around cleanup
9 while enabling another to unearth a significant problem with project analysis shows how Arc's
10 ability to express itself was critical to the public dialogue. [Bloom Decl. ¶ 24] Given the controversy
11 surrounding the development, Arc Ecology's engagement provided a responsible alternative to the
12 rabidly anti and pro development forces. [Bloom Decl. ¶ 24] The commentary provided by Arc
13 Ecology occurred within the generally allotted time frame for project approval and thus promoted
14 efficiency by providing responsible guidance to inform the EIR without providing disruption.
15 [Bloom Decl. ¶ 24] SFRA and Lennar were obligated by law to respond to all commentary. [Bloom
16 Decl. ¶ 24] Because Arc Ecology's goal was to inform the legally mandated EIR process rather than
17 disrupt it, Arc provided professional, technically competent commentary that did not focus on the
18 hyperbole that plagued much of the dialogue. [Bloom Decl. ¶ 24] As a result SFRA had reviewable
19 facts upon which to base their responses. [Bloom Decl. ¶ 24] Arc Ecology's engagement was also
20 helpful to the process because ultimately the City relied on them to help resolve issues regarding the
21 Park plan design negotiations, controversies regarding the DEIR language with regard to Shipyard
22 cleanup and Parcel E/E2. [Bloom Decl. ¶ 24] Further, several of Arc Ecology's suggestions informed
23 the final design plan such as the possibility of housing on Parcel D, an expanded R&D presence on
24 Parcel D, and the park strategy for the shipyard's Southern Shoreline. [Bloom Decl. ¶ 24] Had the
25 City and Lennar adopted Arc Ecology's alternative to the current Yosemite Slough bridge plan they
26 would not be in litigation with the Sierra Club and Audubon today and the delay caused by that
27 disagreement would have been averted. [Bloom Decl. ¶ 24]

C. The Previous Contract Expires and Arc Ecology Is Encouraged to Apply for the New Contract

42. In January of 2009, an RFQ was issued for bids on a new contract, as Arc Ecology's contract was to expire in March of that year. [Bloom Decl. ¶ 25] The SFRA withdrew the RFQ in May 2009. [Bloom Decl. ¶ 26] In a statement to the CAC, director Blackwell indicated that the withdrawal was due to the inability of the selection panel to reach a recommendation, as well as the concerns Bloom had expressed over tainting of the selection process. [Bloom Decl. ¶ 26] Copies of the selection panel score sheet released by SFRA a year later revealed that Arc Ecology had received the highest score of the applicants interviewed. [Bloom Decl. ¶ 26, Exhibit B] The value of that contract was \$1.2 million. [Bloom Decl. ¶ 26]

43. Arc's existing contract was extended to July 2009. [Bloom Decl. ¶ 27] Arc applied for the new RFP in January 2010 and was informed that it had won the RFP in April 2010. [Bloom Decl. ¶ 27] Arc received the unanimous endorsement of the CAC in July 2010. [Bloom Decl. ¶ 27]

44. By April 2010, retaining staff had become a severe strain on Arc Ecology's budget, but Arc did so in anticipation of receiving the contract because Arc would need the staff to carry out the RFP. [Bloom Decl. ¶ 28] Arc continued to pay these individuals for nine months after the previous contract expired in July 2009. [Bloom Decl. ¶ 28] Keeping these same individuals on staff between April 2010 and September 2010 added another six months. [Bloom Decl. ¶ 28] In total, Arc paid for Hunters Point Shipyard project staff for 15 months in anticipation of receiving the contract from the RFP process. [Bloom Decl. ¶ 28]

45. Arc Ecology was never told that it would not be considered for the contract. [Bloom Decl. ¶ 30] Arc was encouraged to reapply after the 2009 withdrawal of the RFQ. [Bloom Decl. ¶ 30] Its representatives were told by both the executive directors of the Office of Economic and Workforce Development and the SFRA that the process would be fair, impartial, above board, and that there would be no political reprisals. [Bloom Decl. ¶ 30]

D. Despite Being The Most Qualified Candidate, Arc Ecology is Rejected for Allegedly "Biting the Hand That Feeds It"

46. Arc Ecology was recommended by the Interagency/CAC Selection Panel, unanimously endorsed by the CAC and recommended by SFRA staff to the Redevelopment Commission. [Bloom Decl. ¶ 31, Transcript 10:14-22] Nevertheless, on September 21, 2010 the Commission voted to

1 reject the recommendation and instead installed a company called Circle Point. [Bloom Decl. ¶ 31,
2 Transcript 56:2-57:9]

3 47. The Commission rejected the staff recommendations on two points. First, Circle Point
4 outscored Arc by 2/10ths of 1 percent. [Bloom Decl. ¶ 31, Transcript 8:23-9:7, 55:1-2] Second, Arc
5 believes, and on this belief alleges, that the Commission denied Arc the contract because Arc had
6 spoken up and petitioned the government on matters of public interest that fell outside the scope of
7 its contract with the SFRA. [Bloom Decl. ¶ 31] Arc believes, and on this belief alleges, that unlawful
8 retaliatory intent was the but-for cause of Arc not being awarded the contract. [See Bloom Decl. ¶¶
9 29, 31, Transcript 45:4-12, 46:1-20, 48:25-49:7, 54:19-25]

10 48. First, as a result of the panel scoring forms, it is evident that the scoring of the Selection
11 Panel was rigged. [Bloom Decl. ¶ 32, Ex. B] Of the five voting panel members, four rated Arc
12 Ecology within two points of each other; the fifth rated Arc a full 33 points below the others,
13 bringing Arc's score down sufficiently to fall behind Circle Point by a fraction of 1%. [Bloom Decl.
14 ¶ 32, Ex. B] Eliminate either the low score or both the high and low scores (as is typically done to
15 factor out bias) and Arc scored higher than Circle Point by at least five points. [Bloom Decl. ¶ 32,
16 Ex. B] The same individual also opposed Arc in a four-to-one vote that resulted in the Panel's
17 recommendation of Arc Ecology. [Bloom Decl. ¶ 32, Ex. B] Arc believes, and on this belief has
18 alleged, that this individual is Andrea Bruss, a staff member of the Mayor's OEWD. [Bloom Decl.
19 ¶ 32] Arc also believes, and on this belief has alleged, that this Panel member was included to ensure
20 that Arc did not win the scoring based on Arc's protected speech and petition activities outside the
21 scope of the contract. [Bloom Decl. ¶ 32]

22 49. Second, the Commissioners' own on-the-record statements evince their intent to retaliate
23 against Arc for its First Amendment protected statements. During the September 21, 2010 hearing
24 in which the Commission rejected the SFRA's recommendation to grant Arc Ecology the 2010
25 contract, Commissioner Leroy King opened the substantive portion of the hearing with the following
26 statement:

27 Well, I want to oppose, speak against giving this contract to [Arc] Ecology. I've been
28 there since the beginning, was on every board that the, Mister [Saul Bloom], that
always have been there, and every time he was there, he spoke opposite to what the
Redevelopment was going on. As far as Lennar and Kofi [Bonner, a Vice President

1 of Lennar] and all the people that, that wanted to work on, are working on this
 2 contract, we support him. [Bloom] spoke against them. He spoke every time it got
 up.

3 [Transcript 45:4-12]

4 Commissioner King went on to state:

5 I hope this committee vote to turn down this contract of his and they, because
 6 [Bloom] has now talk, he wants to be there, but he talks against Lennar, he talks,
 everything we do, he's out there in the community, talking against the basic program
 7 that we're pushing. He's out there today talking against it, and he talked against it
 many a time . . . He's been out there talking against the basic program that this
 8 Redevelopment has been trying to get in that Shipyard, on the bridge and many other
 things.

9 [Transcript 46:8-20]

10 50. Commissioner King then moved to deny awarding the contract to Arc. [Transcript
 11 47:8-9]

12 51. Commissioner Francee Covington spoke next. Commissioner Covington stated:

13 The fact that a number of people in their communications with me have said,
 basically, that in order for us to have less dissension and less controversy with all of
 14 this development that we have to do over the next thirty years, that it is important that
 everybody on the team be on the same page, . . . I think that Saul Bloom is a very
 15 hard-working person, he's a very knowledgeable person, he has hired other
 knowledgeable people, but they are not the only knowledgeable and hard-working
 16 people in the world. They're not the only knowledgeable and hard-working people
 in this city.

17 [Transcript 48:25-49:1-14]

18 52. Commission President Rick Swig also editorialized on Arc's protected speech:

19 [W]here a consultant crosses the line of not being a neutral consultant but being an
 20 advocate, and sometimes it felt like the advocacy went against the, the person that
 hired them, and as a consultant, I have my, my feelings sometimes. I don't agree with
 21 all my customers, but I don't bite the hand that feeds me.

22 [Transcript 54:19-25]

23 53. President Swig then stated that this statement was "editorial," and that he based his decision
 24 on other factors such as the fact that Circle Point scored 81.6 points to Arc's 81.4 and because Arc,
 25 as a nonprofit, is not required to comply with Small Business Enterprise local hiring minimums.

26 [Transcript 55:1-2; 52:9-54:14]

27 54. The Commissioners then voted unanimously to deny Arc the contract and it to Circle Point.

28 [Transcript 56:17-57:9]

55. During the hearing, SFRA staff urged the awarding of the contract to Arc Ecology and spoke highly of Arc's integrity, experience and ability to hit the ground running. [Transcript 4:23-11:16]

56. The public comment period indicated overwhelming support for Arc Ecology, much of which focused on Arc's integrity and roots in the community. [Transcript 16:24-42:21]

57. The loss of the contract is doing irreparable harm because it has chilled Arc's ability to speak out on matters of public concern. It is clear that Arc will never be awarded a new contract if it provides commentary on matters of public interest with which the Commission disagrees. [Bloom Decl. ¶ 33]

58. Arc Ecology sought the 2010 contract because it was the only way Arc could concentrate a sufficient sum of money into the work of providing thorough, detailed technical evaluation and education. [Bloom Decl. ¶ 36] The Commission's action changes the nature of this contract from technical monitoring and education to public relations. [Bloom Decl. ¶ 36]

59. The Commission has set a dangerous standard and sent a message to its current and potential consultants that any entity working under contract with the SFRA is now obligated to censor the information it provides to the CAC and the public so that it comports with the Commission's opinion, whether or not that opinion is substantiated, based on fact, or is challengeable by contrary well-sourced analysis. [Bloom Decl. ¶ 38]

60. The contract is scheduled to be formally awarded to Circle Point on December 7, 2010. [Bloom Decl. ¶ 39]

COUNT I

VIOLATION OF THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION

61. Plaintiff realleges and incorporates here the allegations in Paragraphs 1-59 above, as though fully set forth.

62. Defendants' policies, practices and conduct have violated Arc Ecology's rights to speak, assemble and to petition the government for a redress of grievances.

COUNT II

DECLARATORY RELIEF UNDER 22 U.S.C. §§ 2201, 2202 [DOUBLE CHECK]

63. Plaintiff realleges and incorporates here the allegations in Paragraphs 1-59 above, as though

1 fully set forth.

2 64. There exists an actual, present and justiciable controversy between Plaintiff and Defendants
 3 concerning their rights and duties with respect to Defendants' conduct described herein. Plaintiff
 4 contends that Defendants violated and are continuing to violate Plaintiff's rights under the
 5 Constitution and laws of the United States through their unlawful, retaliatory corruption of the
 6 contracting process. Plaintiff is informed and believes that Defendants deny that their conduct
 7 violates Plaintiff's rights under the Constitution and laws of the United States. Plaintiff is presently
 8 and will continue to be subjected to such unlawful and unconstitutional actions, and seek a judicial
 9 declaration that Defendants' conduct has deprived and is depriving Plaintiff of its rights under the
 10 Constitution and laws of the United States.

11 65. This controversy is ripe for judicial decision, and declaratory relief is necessary and
 12 appropriate so that the parties may know the legal obligations that govern their present and future
 13 conduct.

14 PRAYER FOR RELIEF

15 WHEREFORE, Plaintiff Arc Ecology prays that this Court:

16 A) Issue preliminary and permanent injunctions against Defendants, prohibiting them and their
 17 officers, agents, successors, employees representatives and any and all persons acting in concert with
 18 them from awarding, executing or otherwise finalizing the contract to and/or with Circle Point or any
 19 firm other than Arc Ecology; and

20 B) Declare that the Commission's decision not to award the contract to Arc Ecology violated
 21 the First Amendment; and

22 C) Order that the contract be issued on a viewpoint-neutral basis; and

23 D) Award Plaintiffs their costs and expenses, including reasonable attorneys' fees
 24 under 42 U.S.C. § 1988; and

25 E) Award such other and further relief as is just and proper.
 26
 27
 28

DEMAND FOR JURY TRIAL

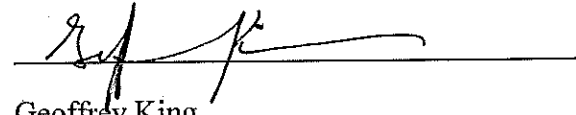
In accordance with Fed. R. Civ. P. 38(b), and Northern District Local Rule 3-6(a), Plaintiffs hereby demand a jury trial for all issues triable by jury.

DATED: December 5th, 2010

Respectfully submitted,

FIRST AMENDMENT PROJECT

By:

A handwritten signature in black ink, appearing to read 'Geoffrey King', is written over a horizontal line.

Geoffrey King

Attorneys for Plaintiff

ARC ECOLOGY

EXHIBIT A

1
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10 AUDIO TRANSCRIPTION OF MEETING OF THE REDEVELOPMENT
11 AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO
12 OPENING OF MEETING AND AGENDA ITEM C
13 SEPTEMBER 21, 2010
14
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17
18
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20

21 ATKINSON-BAKER, INC.
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25 TRANSCRIBED BY: TIMOTHY ROBERT DUVAL

FILE NO. A409BA7

A P P E A R A N C E S

SAN FRANCISCO REDEVELOPMENT AGENCY

Rick Swig, President

Darshan Singh, Vice-President

Leroy King, Commissioner

Francee Covington, Commissioner

Director Blackwell

Thor Kaslofsky, Project Manager

Mr. Morales

Christina Garcia, Contract Compliance Supervisor

Madam Secretary

SPEAKERS

Saul Bloom, Arc Exology, Executive Director

Scott Madison, Shipyard Citizens Advisory Committee

Ben Strumwasser, CirclePoint

Michael Lynes, Golden Gate Audobon Society,
Conservation Director

Eric Smith, Literacy for Environmental Justice, Board
of Directors

Jacqueline Phillips, Bayview Ace

Claude Everhart

John Eller, Bayview Ace

Kate Kelly

Al Norman, Bayview Merchant's Association

1 Lonnie Mason
2 Christine Johnson, Hunters Point Citizens Advisory
Committee
3
4 Tussie Esta, Mothers Committee for Helping
Environmental Justice
5 Terry Anders, Anders and Anders Foundation
6 Mindy Kenner, Southeast Jobs Coalition
7 Richard Hobson
8 Kristine Enea, Bayview Project Area Committee
9 Espanola Jackson
10 Deirdre Smith
11 Al Williams, CirclePoint
12 Oscar James
13 Unidentified Male Speakers
14 Unidentified Female Speakers
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1 PRESIDENT RICK SWIG: Good afternoon. Good
2 afternoon. Oh, are we about ready? Yeah, there we
3 are. Good afternoon. It's now four o'clock and this
4 is the regularly scheduled meeting of the San Francisco
5 Redevelopment Agency for Tuesday, September 21st,
6 2010. I'd like to welcome the public and the radio
7 listening audience.

8 - oOo -

9 PRESIDENT RICK SWIG: Secretary, will you
10 please call the item?

11 MADAM SECRETARY: Thank you, Mr. President.
12 The next item is 4-C authorizing a personal services
13 contract with Arc Ecology, a California nonprofit
14 corporation, to provide environmental information
15 services regarding mediation plans at the Hunters Point
16 Shipyard for a term of one year with two 1-year
17 extension options and one-year budgets, exercised at
18 the Executive Director's discretion, in an amount not
19 to exceed \$282,500 for the first year for a total
20 aggregate amount not to exceed \$847,499; Hunters Point
21 Shipyard Redevelopment Project Area. (Resolution
22 Number 118-2010. Mr. Director?

23 DIRECTOR BLACKWELL: Thank you, Madam, hello,
24 thank you, Madam Secretary. Item 4-C will be presented
25 by Mr. Thor Kaslofsky, who's the Project Manager for

1 the Hunters Point Shipyard Project Area.

2 THOR KASLOFSKY: Thank, thank you, Director
3 Blackwell, and greetings, members of the Commission and
4 President Swig. I'm Thor Kaslofsky, the Project
5 Manager for the Hunters Point Shipyard, today, Staff,
6 seeking your authorization to enter into a contract
7 with Arc Ecology for a term of one year in the amount
8 of \$282,500 with two 1-year extensions and one-year
9 budgets, for an aggregated contract amount of \$807,40,
10 \$847,599, to be exercised by the Executive Director.
11 The Shipyard has had a long history of operations in
12 Bayview-Hunters Point since the 1940's, concluding most
13 recently with its decommissioning in 1974. Since then,
14 a Citizens Advisory Committee was formed in 1991 to
15 advise the Agency on the Shipyard's development, and in
16 1997, a plan was approved for the site, and in 1999,
17 Lennar was selected as the developer, and in 2003,
18 a development agreement with them was approved..
19 In 2004, a conveyance agreement with the Navy was
20 approved in which the Navy and the city agreed to make
21 joint presentations about the environmental
22 characterization, remediation, and conveyance plans to
23 the community. It is with this purpose in mind that
24 the Agency issued a solicitation for environmental
25 information services in 2005 to provide a technical and

1 educational resource for the CAC and the Bayview-Hunters
2 Point community on the Shipyard's clean up program.
3 Arc Ecology was recommended, was recommended, the
4 recommended firm for that contract, and they were the
5 contractor until July 2009 when their contract expired.
6 It was during that time in 2005 that Parcel A was
7 transferred for development to Lennar and they began
8 demolition and grading of Parcel A, and they started
9 their infrastructure construction in 2007. All the
10 while, the Navy was conducting ongoing environmental
11 analysis and remediation on the rest of the Shipyard
12 with an annual budget recently in the range of eighty
13 million dollars. Progress on the site has made it
14 possible for Parcels G, B, D-2, UC-1 and 2 to be
15 scheduled for transfer in 2011. When the Agency
16 purchases goods or services such as environmental
17 information services, it must follow the Agency's
18 purchasing policies, one of the four methods of
19 procurement. Due to the type of services that we were
20 seeking, we used the RFP, Request for Proposals and
21 Request for Qualifications Process, which requires
22 competitive solicitation, evaluation criteria that
23 identifies the most qualified firm based on
24 considerations other than the lowest price. The
25 policy also requires new solicitations for contracts

1 that have been held by the same firm for more than
2 three consecutive years. The agency also has a
3 Small Business Enterprise policy which provides a
4 small business enterprise, or SBE's, with an
5 opportunity to compete for and participate in Agency-
6 assisted projects to achieve its economic development
7 goals. The Agency's SBE policy gives first
8 consideration to SBE's and establishes a
9 subcontracting goal for SBE's of fifty percent, and
10 if an SBE is not selected, there must be a valid reason
11 for that decision. Also, the SBE policy does not
12 provide consideration for contractors based on their
13 local hiring efforts or the residence of their
14 employees, and under the current Agency's policy, not
15 for profits don't qualify as SBE's. Christina Garcia
16 from the Contract, the Contract Compliance Supervisor,
17 was involved during the solicitation, and is also here
18 to answer any questions about these policies and their
19 application to this contract. Using this approach, the
20 Agency's first solicitation for environmental
21 information services was in October 2005. The panel
22 back then selected Arc Ecology for the contract award.
23 That contract expired in July 2009 after a four month
24 extension, which was granted in March 2009. A new
25 solicitation for environmental information services

1 began in January 2009, and the Agency received four
2 proposals by the due date of February 27th. The Panel
3 was made up of Agency staff, staff from the Office of
4 Economic and Workforce Development, a technical
5 environmental expert from the city's Department of
6 Public Health, and CAC members. They evaluated,
7 interviewed, and scored the four RFQ respondents, but
8 declined to recommend a firm for the contract.
9 Instead, they recommended that the Agency withdraw
10 and revise the scope of services. The budget
11 proposals that were submitted ranged widely, and the
12 panel recommended to put in a budget cap. Also, the
13 Navy's advisory body, the Restoration Advisory Board,
14 was in the process of being dissolved by the Navy,
15 and the Panel wanted to make sure that the contract
16 scope reflect the increased focus on the CAC as a forum
17 for community dialogue regarding the Shipyard's
18 environmental cleanup for the long term and that the
19 selected contract would have the expertise and
20 experience to support the CAC in this capacity. In
21 accordance with the Panel's recommendation, the Agency
22 released a revised request for proposals in December
23 2009. We received five proposals and interviewed all
24 five firms. The results of that analysis and scoring
25 was Benz Environmental for 33.9 points, the Center for

1 Creative Land Recycling for 64.9 points, BergDavis
2 Public Affairs for 64.4 points, Arc Ecology for 81.4
3 points, and CirclePoint for 81.6 points. Arc Ecology
4 and CirclePoint's scores were very close, only two,
5 only .2 points apart on a hundred point scale, making
6 it difficult for the Panel to determine who was the
7 most qualified. The Panel then engaged into a finely
8 grained discussion of the firm's qualifications and
9 focused on a few key issues, Each firm proposed a
10 solid outreach approach. Both proposed a mix of
11 workshops and online and multimedia tools, as well as
12 some non-traditional methods, such as targeting
13 non-Englisgh speakers and conducting door-to-door
14 outreach in Bayview-Hunters Point. The panel also
15 wanted to better clarify and distinguish Arc Ecology's
16 perceived roles in the community, one as the Agency's
17 environmental information services contractor, and the
18 other as a voice for environmental issues in Bayview-
19 Hunters Point. To reconcile this proposed, the, excuse
20 me, to reconcile these issues, the contract proposes to
21 impose requirements such as Agency approval before
22 taking on any additional Shipyard-related work and
23 issuing any media announcements. Contract Compliance
24 advised that not choosing the SBE firm is allowed, but
25 required an explain, explanation. Lastly and most

1 importantly, the Panel discussed the ability of either
2 firm to perform the contract and ramp up. Arc Ecology
3 was the contract holder since 2005 and has significant
4 experience in the Shipyard dating back since, to 1984.
5 Their extensive knowledge enables them to deliver
6 information quickly to the CAC, and Arc Ecology's been
7 very responsive. In light of the RAB not existing, the
8 CAC will be the only official Shipyard community forum
9 to host environmental dialogue about the upcoming
10 parcel transfers and development on Parcels B, G, D-2,
11 UC-1 and UC-2 as they are scheduled for transfer in
12 late 2011. The Panel ultimately was concerned about
13 CirclePoint's ability to get up to speed in time and
14 support the CAC. It was with this in mind that the
15 Panel concluded with a vote that Arc Ecology was the
16 most qualified firm to undertake the tasks in the
17 environmental information services contract. Legal and
18 Contract Compliance staff concurred that the selection
19 process conformed to all Agency's policies. We took
20 the Panel's recommendation to the CAC, which
21 unanimously approved it in July 2009, excuse me, July
22 of this year. The budge for this contract is \$282,500
23 for the first year, and each subsequent year subject to
24 approval by the Executive Director. The scope of
25 services that Arc Ecology will undertake includes

1 technical monitoring of Agency meetings, and analysis of
2 Navy technical documents, and monitoring of Parcel A
3 air sampling data. It will also include technical
4 support for the CAC and the community to assist in
5 their understanding of the Shipyard environmental
6 documents. Also included is a community education
7 component using workshops with the CAC, fact sheets
8 and newsletters, and utilizing a technical library,
9 both online and in hard copy, to increase the
10 community's understanding of the Shipyard's clean up
11 program. The scope also includes outreach for
12 workshops, a website, and monthly outreach reporting
13 to the CAC and community on meetings. With that, I
14 just want to introduce Saul Bloom, the Director of
15 Arc Ecology, to talk about the qualifications of his
16 firm. Mr. Bloom?

17 SAUL BLOOM: Commissioners, Saul Bloom,
18 Executive Director of Arc Ecology. I'm pleased and
19 proud to be here with you tonight. We have been
20 recommended for this contract today because of our deep
21 understanding of the issue, our knowledge of the
22 community, the infrastructure we have built over the
23 last twenty-five years of serving Bayview-Hunters Point
24 and the city regarding the Hunters Point Shipyard
25 clean up. This has been a long path to this point. As

1 Mr. Kaslofsky said, we have re, we have, we first
2 applied for this new contract in 2009 only to have that
3 RFQ withdrawn. After fifteen months, a second ARP
4 process later has been, we have been recommended for
5 the contract again. The costs to the community for
6 the lapse in this service has been significant. We were
7 unable to provide the community with a complete range
8 of services, workshops, newsletters, other things, as
9 we had done in the prior years. At the same time, the
10 Restoration Advisory Board had been shut down. As a
11 small Bayview-Hunters Point non, not for profit,
12 charitable public interest organization, the expense to
13 our organization was substantial, as well.
14 Nevertheless, we continued to provide services, the
15 services that we could afford, to the Bayview
16 community. There is much to do. We are excited about
17 our new Community Captain program, modeled on COO, and
18 designed to provide substantial supplemental income to
19 neighborhood leaders, directly engaging them in the
20 education and outreach program of the project. This is
21 what we believe to be real Bayview-Hunters Point social
22 networking. We also feel the press of the issue. Land
23 transfer clean up documents loom large on the horizon.
24 Arc Ecology does not need to hit the ground running
25 because, frankly, at this point, we are running. We've

1 been running. We've been running for years, and we
2 have been running around with regard this process for
3 the past twenty-five years. As Mayor Agnos shared with
4 you, we have a long and important history of
5 contribution to this issue. We are a community-based
6 organization that brings national perspective to local
7 Superfund sites through our local Superfund site with
8 contacts we have been applying over the years to help
9 the neighborhood and the, with the regard to the
10 clean up of the Hunters Point Shipyard. We have seen
11 the terms of the contract, we have agreed with the
12 terms of the contract, and we are anxious to start
13 making an important contribution in the specific areas
14 of emphasis. I want to thank Mayor Agnos, Kofi Bonner,
15 Senator Leno, the members of the Citizens Advisory
16 Committee, members of the Board of Supervisors for
17 their support. In particular, I would like to thank
18 the grassroots members of the Bayview-Hunters Point
19 community who have come here today and have come here
20 repeatedly over the last six years and have spoken on
21 our behalf. I'd like to introduce my staff to you
22 right now. This is not our full staff. Unfortunately,
23 in June, death took Jesse Mason, our long-term Economic
24 and Community Employment Development Coordinator. We
25 still miss Mr. Mason and look forward to the

1 opportunity to fill that position with someone else
2 from the Bayview. His son, Lonnie Mason, is here, as
3 well, but, and our Asian staff member is not here, as
4 well, but we have a good showing of the diversity of
5 our staff, which we bring as a part of Arc Ecology and
6 our long-term commitment to environmental justice. We
7 are straight, we are gay, we are black, we are white,
8 we are Asian, we are young, we are old, we are all the
9 things that reflect the Hunters Point Bayview community
10 and this city at large. Mr. Mike McGowan is our Staff
11 Scientist. Mike, could you stand? Mike has been
12 working on this subject now for three years. He has
13 been heavily involved in the base clean up team
14 meetings. He has attended all of the base clean up
15 team meetings. He has also attended all of the
16 Restoration Advisory Board meetings, worked on the
17 Restoration Advisory Board Technical Committee, and has
18 reviewed materials on the Shipyard, all of the materials
19 on the Shipyard clean up. Ms. Rachel Russell is
20 conducting our outreach program. Rachel is our
21 shared staff person with Literacy for Environmental
22 Justice, a partner organization that deals specifically
23 with the issues of youth in the Bayview, in Bayview-
24 Hunters Point. We've been working with Literacy for
25 Environmental Justice for many, many years, and their

1 letter of endorsement is in your packet. Anne Devine
2 is our community education and publications and
3 electronic media person, she worked with KQED, and has
4 had a long history in the electronic media, which we are
5 using, as well. We have been in the Bayview twenty-
6 five years. We have read every environmental document.
7 We have every environmental document that has been
8 produced around Bayview-Hunters Point in our files. We
9 have a complete file of the Redevelopment programs. We
10 understand the Redevelopment program. Working with
11 Aboriginal Black Men Unlimited in the (unintelligible),
12 we helped bring ship recycling to the Hunters Point
13 Shipyard and trained eighty African-American
14 individuals who worked at the Shipyard for six years
15 between 1995 and 2001 in ship recycling. We're talking
16 with the Agency right now about looking at that project
17 again. These are the kinds of diverse programs that
18 Arc Ecology has brought to the Bayview because we
19 understand that, whether its toxic clean up or
20 economic development, both need to occur simultaneously
21 in Bayview if we are to solve the greater problems of
22 the Bayview, and that's what Arc Ecology has dedicated
23 the last twenty-five years to, being an important
24 contributor to solving the problems in the Bayview.
25 Our office is right there on Third Street in Town

1 Center, a place we intend to remain. Thank you very
2 much.

3 THOR KASLOFSKY: Thank you, Mr. Bloom. Thor
4 Kaslofsky again, for the record. I will conclude with
5 a set of next steps. If the Commission were to approve
6 this contract today, Arc Ecology will, with direction
7 from the Agency, will assist the CAC in restarting the
8 Environmental Subcommittee meetings, which have been
9 canceled recently, and Arc Ecology will also work with
10 the Agency and the CAC on workshops covering topics
11 such as the Navy's Community Involvement Plan Process
12 since there is no RAB and the upcoming clean up
13 decisions over the next twelve months, including the
14 parcel transfer process and the update on Parcel A
15 dust control. That concludes Staff presentation.
16 Thank you.

17 DIRECTOR BLACKWELL: Thank you. Madam
18 Secretary, any speaker cards on this item, and once
19 again, speakers are limited to two minutes. Thank
20 you.

21 MADAM SECRETARY: I have eighteen cards.
22 First speaker is Scott Madison, followed by Ben
23 Strumwasser, then Michael Lynes, then Eric Smith.

24 SCOTT MADISON: Good evening, Commissioners.
25 My name is Scott Madison. I'm on the Shipyard

1 Citizens Advisory Committee. Along with Commissioner
2 Emeritus Leroy King, I was one of the original
3 appointees to the Committee in 1991. I'm the last
4 one still serving from that core, and between 1991 and
5 2008, I was either a Vice-Chairman or the Chairman of
6 the, of the Citizens Advisory Committee. Another early
7 CAC member was Saul Bloom of Arc Ecology, who was more
8 knowledgeable about shipyard clean up issues than most
9 government regulators. As CAC Chairman, I was involved
10 in framing the first environmental contract, and I
11 worked closely with Arc on many issues, including Prop
12 68, the City-Navy Transfer Agreement, and the City
13 Policy Article 37 in the Health Code that restricts
14 development at the Shipyard for environmental safety.
15 Arc was selected by the CAC because of the kind of work
16 that they did. The community demanded and you granted
17 us an independent advisor on environmental matters.
18 Arc has been what the CAC wanted, a community-based,
19 independent environmental advisor, and it seems that
20 independence is the rub. What CAC wanted was a
21 watchdog, not a lapdog. That is the crux of the matter
22 and it highlights the tension between citizens'
23 advisory bodies and the public agencies that enable
24 them. CirclePoint is a downtown firm that may be
25 technically qualified, but in my twenty-plus years,

1 they are strangers to the Shipyard and the community.
2 Mr. Scott's community credentials are unquestionable,
3 but what is his environmental expertise? CirclePoint's
4 numerous city contracts and Mr. Scott's Lennar contract
5 raise some obvious fox and henhouse issues for me.
6 Arc's decades of work on shipyard environmental issues
7 clearly makes them the most qualified candidate, and
8 that is why the CAC has endorsed them. The
9 Commission should have the integrity and the courage
10 to hire the watchdog the community needs and deserves,
11 even at the risk of an occasional nip at the heels.
12 Thank you.

13 PRESIDENT RICK SWIG: Thank you.

14 MADAM SECRETARY: Next speaker is Ben Strum,
15 Strumwasser.

16 BEN STRUMWASSER: Thank you. I'll be brief.
17 My name is Ben Strumwasser. I'm a principal with
18 CirclePoint. I really just came here to restate our
19 interest in the Redevelopment Agency's Hunter Point
20 Shipyard environmental information services contract.
21 We feel strongly that our team has the qualifications,
22 has the experience to do this job. Beyond Mr. Scott,
23 we have Al Williams, who has a significant amount,
24 decades of experience working in the community. We as
25 a firm have worked in, in the community on multiple

1 projects. We also have O'Ryan Environmental Consulting,
2 who's also done work at the Shipyard on the clean up,
3 so I, I don't think there should be any question
4 about our capabilities in terms of our, our experience.
5 Clearly, this is a, an award that is not without some
6 differences of opinion, but beyond rating the highest
7 score, obtaining the highest score, which was a diff,
8 a little difficult to look at because some, it felt
9 like, if I went to a baseball game and the outcome of
10 the score was 10-8 and they would award the win to the
11 person who got 8, but be that as it may, the only thing
12 that I've heard as an explanation for why they
13 wouldn't, you wouldn't select us is that we don't have
14 as much experience and we can't get up to speed. All
15 of the people on this team have worked in environmental
16 clean up. All of the people have ex, experience
17 working in the, in the vicinity. There would not be
18 a, a, another firm that could get up to speed if, if
19 Arc Ecology had the, the contract for all this time,
20 so why go to the trouble to let out an RFP and an RFQ
21 if, if there is no one who's going to be as, as
22 experienced, and, in fact, we do have the experience,
23 and we are capable of getting up to speed, and prepared
24 to do that for you. We'd like to work on this, this
25 project. We do ask you that you really consider the

1 decision. Thank you for your time.

2 PRESIDENT RICK SWIG: All right.

3 MADAM SECRETARY: Michael Lynes --

4 PRESIDENT RICK SWIG: Thank you.

5 MADAM SECRETARY: -- followed by Eric Smith,
6 then Jackie Phillips.

7 MICHAEL LYNES: Hello, my name is Michael
8 Lynes. I'm the Conservation Director with the Golden
9 Gate Audubon Society, and I come representing the
10 Golden Gate Audubon today and its constituents. I at
11 first want to encourage you to accept the
12 recommendation of the CAC and Staff to extend the
13 contract for Arc Ecology, and I think there's many
14 reasons that have already been stated, and I won't go
15 through and reiterate those provided by Staff and by
16 the representative from the CAC. I'd like to provide
17 you some of the perspective from our, rather, our
18 perspective as an environmental organization that has a
19 regional, that works regionally and needs to come in at
20 certain times and work on very local issues, and we
21 found that, that the value provided by Arc to be
22 absolutely essential. Golden Gate Audubon has a long
23 history of working in the area for decades, but I'm
24 actually, I'm new to the, relatively new to the
25 organization, especially when you think about the long-

1 term history of how long this stuff has gone on, and
2 Arc Ecology has been essential in order to getting up
3 to speed and trying to understand the very key issues
4 that relate to my constituency, which I acknowledge is
5 relatively small and often unpopular, especially given
6 certain developments, and we understand that, but we
7 have an important voice that needs to be heard, and
8 we can only do that if we have good information, and
9 true information, and fearless information, not from
10 someone who's worried about maintaining the contract,
11 but who, someone who can read and understand the
12 material, understand it inside of the context of the
13 community because they work and live in the community,
14 and that they're not afraid to provide that objective
15 information. So, again, I think that's the kind of
16 service that Arc provides, I don't think you can do
17 better, and I think you should extend the contact. We
18 strongly urge you to do so. Thank you for your time.

19 PRESIDENT RICK SWIG: Thank you.

20 MADAM SECRETARY: Eric Smith.

21 ERIC SMITH: Good evening, Commissioners.

22 Eric Smith. I'm a former member of the Navy's
23 Restoration Advisory Board, as well as one of the Board
24 of Directors of Literacy for Environmental Justice.
25 I'm here in support of Arc Ecology. There is no

1 organization and no group that has their history,
2 that's done the work that they've done, that has the
3 relationships with the folks in Bayview. With the
4 loss of the Restoration Advisory Board, Arc Ecology
5 has been the only place we can go for information, and
6 their staff has been fantastic in, in sharing that
7 knowledge. I miss the Restoration Advisory Board,
8 but I've been grateful that Arc Ecology has been
9 around to deliver the kind of services that the
10 community needs, needs to see. I think experience
11 does matter. I think this isn't just a baseball game.
12 I think relationships, history, and the things that
13 Arc Ecology provides are essential, and I would urge
14 you to approve this. Thank you.

15 PRESIDENT RICK SWIG: Thank you.

16 MADAM SECRETARY: Jackie Phillips, followed
17 by Claude Everhart, then John Eller.

18 JACKIE PHILLIPS: Good evening,
19 Commissioners. My name is Jacqueline Phillips. I'm a
20 member of Ace, but also more important, I am a
21 resident of the Bayview-Hunters Point for over fifty
22 years. I can only speak for a resident, as a resident.
23 I don't know all the different organizations. I do
24 know, however, a lot of organizations has come to the
25 Bayview-Hunters Point, and I've attended meetings, and

1 I left those meetings not knowing any more than I did
2 when I went. I have gone to workshops with Arc Ecology,
3 and they have sit down and have explained in detail.
4 They've actually taken us on tours. So when they show
5 a map to some of the residents of the changes that are
6 going to be made, and we totally don't have a clue as
7 to "where is that located?" we have gotten into their
8 personal vehicles and they have taken us out to the
9 sites, and they have shown us what the changes will
10 mean to us, what they will look like, and we know now
11 where they're located. I know other organizations would
12 like to have this contract, but to me what's most
13 important is people that we have done business with, we
14 have learned to trust, and in the Bayview-Hunters
15 Point, trust is one of the things that keeps a lot of
16 hassling going on. We don't know who to trust because
17 there are a lot of broken promises. We have found that
18 Arc Ecology has been straight up and honest with us.
19 Even with some of the things we may not totally agree
20 with, they have been honest. They did not try to hide,
21 hide things from us. So, as a resident, I would urge
22 you to approve the contract with Arc Ecology because
23 they have a communication and a relationship with the
24 actual residents in the Bayview-Hunters Point. Thank
25 you.

1 PRESIDENT RICK SWIG: Thank you very much.

2 MADAM SECRETARY: Claude Everhart?

3 CLAUDE EVERHART: My name is Claude Everhart.
4 I'd actually love to see CirclePoint get this
5 contract because I love Al Williams, he's one of my
6 closest and dearest friends, but by rights, I can't
7 recommend that they get this contract. Arc Ecology
8 deserves it. I want to commend the work that your
9 Staff has done in measuring these two worthy
10 organizations and determining that Arc Ecology is the
11 organization that should go forward. As the woman
12 before me just talked about, the issue is trust. I've
13 worked with Arc Ecology since 1987, and whether you
14 are on one side of the issue or not, when Mayor Agnos
15 and I and our staff worked on the USS Missouri issue
16 years and years ago, there was one environmental
17 organization in this city that we could rely on for
18 clear, concise, correct information. Last year, when
19 Senator Leno called upon former Mayor Agnos, and he
20 called me, to work on coming up with a resolution for
21 the state park, our state park, the state park that Art
22 Agnos founded, that I started my political career on,
23 we wanted to protect that park. It was Arc Ecology
24 that stepped up and provided the information that we
25 needed in order to bring the community together to

1 achieve a community consensus to have the Sierra Club
2 take the lead and come up with the, the final deal that
3 allowed for the transfer of the Candlestick Point Stick
4 recreation area. Arc Ecology deserves this contract
5 because of their credibility with our community.

6 Thank you.

7 PRESIDENT RICK SWIG: Thank you very much.

8 MADAM SECRETARY: John Eller, then Kate
9 Kelly, then Al Norman.

10 JOHN ELLER: Good evening, Commissioners and
11 President Swig. My name is John Eller. I'm with, I'm
12 a staff person at Ace, Bayview Ace. We're eight hundred
13 member families living in District 10, and many of
14 those families do live near the Shipyards and have been
15 involved in the Hunters Point Candlestick Redevelopment
16 Project. Ace is a, in a CBA with Labor Counsel, the San
17 Francisco Organizing Project, and Lennar to make sure
18 there's a deliverable of maximum community benefits into
19 the, into the Bayview-Hunters Point residents, making
20 sure families get living wage career jobs and
21 housing, and this project really is about jobs, career
22 jobs for families that have, that live in Bayview-
23 Hunters Point and District 10. It's about housing for
24 families and seniors that you saw that just were here
25 earlier and people in the community that live there

1 currently, as well as people that were, you know, our
2 goal is to bring back to the community that have been
3 displaced. It's also about health and the fact that
4 one in six kids have asthma in Bayview-Hunters Point.
5 The cumulative air impacts trucks industry beyond just
6 the, the concerns a lot of the residents have related
7 to the shipyards, and, you know, our goal is to make
8 sure families have as much information as possible and
9 can actually get involved and find balance between a
10 lot of the projects that are, are occurring out in the
11 southeast. You know, President Swig talked about
12 Michael Cohen as a consensus builder, difficulty
13 getting things done, getting information, finding
14 balance. That's exactly what Arc Ecology has done
15 though its workshops over the years, finding families to
16 get to, to actually get them out of their homes to
17 come out and find out what's going on as, as Jackie
18 mentioned, and building trust, and that's what this
19 project is about is building trust in the community so
20 that we can actually move forward and bring the
21 development that's needed and not create more, more
22 friction and divisiveness in the community.

23 PRESIDENT RICK SWIG: Thank you.

24 MADAM SECRETARY: Kate Kelly, then Al
25 Norman, and then Doris Vincent.

1 KATE KELLY: Good evening, members of the
2 Commission. My name is Kate Kelly, and I've had the
3 privilege recently of working closely with Saul Bloom
4 and Arc Ecology on Bayview-Hunters Point issues. I
5 have always found them to be of the highest integrity.
6 They are balanced, responsible, and certainly
7 technically competent. Their office is located right
8 in the heart of Bayview-Hunters Point, and I know that
9 they care very deeply about the community and the
10 success of the Redevelopment Project. I agree with
11 what Eric Smith said a few minutes ago. This is not a
12 baseball game. This is about relationships, and it's
13 about trust, and I trust Saul Bloom and Arc Ecology to
14 do the right thing. I support this recommendation.
15 Thank you.

16 MADAM SECRETARY: Al Norman, then Lonnie
17 Mason, and then Utima Bofry.

18 AL NORMAN: Mr. Chairman, Mr. Director,
19 Council, Al Norman, Bayview Merchant's Association. I
20 have a handout for you of all the reasons why Arc
21 Ecology shouldn't get this contract. If we remember --

22 PRESIDENT RICK SWIG: You said should or
23 should not?

24 AL NORMAN: Should not get this contract.

25 PRESIDENT RICK SWIG: Thank you. I couldn't

1 hear you.

2 AL NORMAN: I mean, I've heard all the stuff
3 about the integrity, and I'm not saying that they don't
4 do the excellent work that they think. He got twenty-
5 five years in, and many of them years was as a
6 contractor and as a CAC member, and I came before you
7 many years ago complaining about the conflict of
8 interest, and this same item came up here concerning
9 him being a nonprofit, so it don't apply. When does
10 somebody else get a chance to come out here and, and,
11 and be a part of Bayview-Hunters Point, and have some
12 integrity? He had this contract, he never would have
13 lost it, but he went against this Agency and against
14 the community on many projects concerning his
15 alternative plan when we already had a plan in place,
16 and we aren't saying anything, that was illegal or
17 anything, all right, but you had a contract to look out
18 for the community in the environmental concern, not be
19 going out here with this alternative plan or what you
20 think, not about no bridge or anything else, and this
21 document I got before you is, is all the things that
22 he's did. Now, you say that he is a pillar of the
23 community, he's this, that, and the other, and he may
24 have been at one time, but he's not now. I think
25 CirclePoint deserves a chance or whoever to come up and

1 be able to participate in this contract, and let's see
2 what somebody else can do. You know, you can sit up
3 here and listen to all of this stuff that all these
4 people have to say, and I'll agree with every bit of
5 it, and I'll agree with his qualifications, but he has
6 no integrity this day. He has none for the very reasons
7 stated in those things. This alternative plan about
8 the bridge and all of this, but he don't tell you that
9 he's putting all those PDR contractors out of work
10 back there where he wanted that alternative plan.

11 Thank you.

12 PRESIDENT RICK SWIG: Thank you, Mr. Norman.

13 MADAM SECRETARY: Lonnie Mason, followed by
14 Utima Bofry, and then Kristin, Christine Johnson.

15 LONNIE MASON: Wow. Good evening,
16 Commissioners. I'm here in the support of Arc Ecology.
17 The reason for me being here, not just because of my
18 father, he was a supporter of Arc Ecology, he was born
19 in the Bayview-Hunters Point community, as well as
20 myself. The gentleman before, I don't want to go by a
21 lot of things that he said, but I didn't see those
22 actions, and I'm a fair person, and anyone can have
23 suggestions, but my father been with the Bay, with Arc
24 Ecology for a mere ten years. The first five was
25 volunteer work, the last he was on the staff, the last

1 five or six years, but I believe because of my father
2 being a part at that organ, of that organization, he
3 believed in Arc Ecology. He believed, he trusted in
4 Arc, in Arc Ecology, as well as myself. I've been to
5 the office many a times, been to a lot of the
6 workshops that they had in the community and so forth,
7 and supporting them, and seeing them going out and
8 doing the outreach. I've been there to all of that,
9 and I'm just here to say that I'm in support of Arc
10 Ecology based on their experience. They've been around
11 long enough, they have an understanding, and as you've
12 seen, piggyback on Jackie Phillips, he's a resident
13 here. A resident. My father was a resident. So I ask
14 that you support Arc Ecology in passing this. Thank
15 you.

16 PRESIDENT RICK SWIG: Thank you very much.

17 MADAM SECRETARY: Utima Bofry, followed by
18 Christine Johnson, then Tussie Esta. Christine
19 Johnson?

20 CHRISTINE JOHNSON: Okay, good evening.
21 You've had a lot of people come up here and talk about
22 why they love Arc Ecology, and I just want to give a
23 little more background on why it's important that the
24 CAC gets expert advice from whoever. I'm, my name's
25 Christine Johnson. I'm the Secretary of the Hunters

1 Point Shipyard Advisory, Citizens Advisory Committee.
2 The CAC's Environmental, Environmental Re-Use
3 Subcommittee is a complement to the Navy's public
4 meetings put in place after the dissolution of the RAB,
5 and we serve as an outlet for education and public
6 comment on issues of environmental remediation. We
7 feel that it's imperative that we begin again to get
8 immediate advice and, and expert opinion on the clean
9 up of the Shipyard. It's not only about decoding the
10 ROD's, the Record Of Decisions, and memos, and other
11 materials. It's also about helping us properly
12 assimilate this information into our work advising on
13 final land use, and that's really what I'm here about.
14 We need help to know what the various clean up methods
15 mean and what the consequences, unintended and intended,
16 could be. This is particularly in the case of early
17 transfer of parcels that will be happening next year,
18 in less than twelve months, where we won't be dealing
19 with the Navy anymore, but with contractors that would
20 be hired by the city. We've been at, without this
21 advice for more than a year, and before this, the
22 Environmental Re-Use Subcommittee was put on standby.
23 You only need to come for a few minutes to see the
24 noticeable decline in the substance and value of those
25 meetings and our conversation about the remediation.

1 We think this is to the detriment of members of the
2 public who come to our meetings for information and
3 perspective, to the CAC members, and, frankly, to the
4 Agency and the city who rely on the PAC and the CAC as
5 a major part of their outreach strategy. So, therefore,
6 I am here to advocate for the passage of this personal
7 services contract.

8 PRESIDENT RICK SWIG: Thank you very much.

9 MADAM SECRETARY: Tussie Esta?

10 TUSSIE ESTA: Good evening, Commissioners.
11 My name is Tussie Esta. I'm Coordinator to Mothers
12 Committee for Helping Environment Justice. For you,
13 for you that don't know, up on that hill, like, up in
14 Hunters View, it's so hard for us to get information
15 about what's going on in our community. With the help
16 of Uncle Jesse Mason, he made it possible for us to
17 get information from Arc Ecology about the
18 environmental issues. I'm here to support Saul and
19 Arc Ecology, even though we have our differences in
20 what's going on with the Shipyard, but by him
21 acknowledging us to get this information out to the
22 residents up on the hill, which we very seldom get,
23 it's an honor for him to acknowledge us to work with
24 him to, on this project. So, today, the Mothers
25 Committee of the Bayview-Hunters Point and Hunters

1 View Mothers Committee for Healthy Environmental
2 Justice supports Saul to get this contract. Thank you.

3 PRESIDENT RICK SWIG: Thank you.

4 MADAM SECRETARY: Terry Anders, followed by
5 Mindy Kenner, then Richard Hobson, then Chris, Kristine
6 Enea, and then the last card would be Espanola
7 Jackson.

8 TERRY ANDERS: Commissioners, glad to be
9 here. My name is Terry Anders of Anders and Anders
10 Foundation. I am in support of Arc Ecology to get
11 this contract. Jesse Mason and I helped create the
12 Southeast Job Coalition, and that was part of the Arc
13 E, Arc Ecology. There were many days that I would go
14 down there and me and Jesse would talk about the
15 different issues and what was affecting the community.
16 You know, it is, it is without question, and I'll say
17 it again, it is without question Arc Ecology deserves
18 this contract, bar none. Whatever political inequities
19 that people may, may, may have, or even want to imply,
20 it should have nothing to do with Arc Ecology
21 receiving this contract. That community had done and
22 been part of neglect and enough BS to last for ten
23 lifetimes as far as everybody trying to shuffle under
24 the table, over the table, or around the table --

25 UNIDENTIFIED FEMALE SPEAKER: Yes, yes.

1 TERRY ANDERS: -- shuffle, for someone to
2 deal with some integrity that Arc Ecology did and Jesse
3 Mason was a part of.

4 UNIDENTIFIED FEMALE SPEAKER: All right.

5 TERRY ANDERS: It's still here. They need to
6 get this contract.

7 UNIDENTIFIED MALE SPEAKER: Yeah.

8 UNIDENTIFIED FEMALE SPEAKER: Very good.

9 UNIDENTIFIED FEMALE SPEAKER: Yeah!

10 PRESIDENT RICK SWIG: Thank you very much.

11 MADAM SECRETARY: Mindy Kenner, followed by
12 Richard Hobson.

13 MINDY KENNER: Good evening, Commissioners.
14 I'm here, actually, to represent the Southeast Jobs
15 Coalition. I won't read the letter, but I will hand it
16 over for you to take a look, and we are urging you to
17 recommend Arc Ecology. Thank you.

18 PRESIDENT RICK SWIG: Thank you.

19 MADAM SECRETARY: Richard Hobson.

20 RICHARD HOBSON: Good evening, Commissioners.
21 I'm here tonight in support of Arc Ecology. I'm
22 actually kind of surprised to be here today because
23 one of the things that was discussed with Redevelopment
24 and with all the parties that were to the Hunters Point
25 Bayview Shipyard Project was that jobs should go to the

1 businesses, contracts should go to the businesses, to
2 the residents of Bayview-Hunters Point. So I'm a
3 little bit surprised that we're even here today talking
4 about taking away a contract from a business that has
5 been in the Bayview-Hunters Point for a very long time.
6 What this basically demonstrates to residents of the
7 Bayview is that, number one, Redevelopment is possibly
8 going to do what they've done in other communities,
9 which is take away, give contracts, give jobs, give,
10 give business to outsiders, and, basically, to
11 companies that do not reside in the Bayview-Hunters
12 Point. So, again, I'm a little bit surprised to be
13 standing here arguing for a business that resides in
14 Bayview, hires Bayview residents, and has a long-
15 standing relationship with Bayview-Hunters Point
16 residents. So I'm just here to say, you know, it's
17 important to remind residents that this project is
18 about them, it's about businesses in the Bayview-
19 Hunters Point, and that Redevelopment has a commitment
20 to support residents and to support businesses that
21 are in the Bayview-Hunters Point. Thank you.

22 PRESIDENT RICK SWIG: Thank you.

23 MADAM SECRETARY: Kristine Enea, followed
24 By Espanola Jackson, then Deirdre Smith, and then Oscar
25 James.

1 KRISTINE ENEA: Good evening. My name is
2 Kristine Enea. I am the Secretary of the Bayview
3 Project Area Committee. I'm a former Technical Chair
4 of the Restoration Advisory Board. I chair the India
5 Basin Neighborhood Association. We are administering
6 the EPA's Technical Assistance Grant, looking at clean
7 up of the Shipyard. It's a tiny, itty-bitty grant.
8 It's enough for maybe a couple meetings a year over
9 three years. The first three years of my career as a
10 lawyer, I spent in environmental litigation. I live on
11 Innes Avenue. Trucks going to and from the Shipyard
12 go down my street every day. So I'm here speaking
13 with a lot of knowledge about the clean up, and a lot at
14 stake personally, and I'm here to speak in support of
15 Arc. My position on the development in the Shipyard
16 might be a little different from Arc, and it might be
17 a little nuanced, but it's been consistent. I've
18 supported the plan with amendments to deal with some
19 of the comprehensive transportation effects. However,
20 even without those amendments, I believe the
21 community is better off with the development than
22 without it, if for no other reason than it's the
23 development that is driving the clean up. The
24 community doesn't know that. We have a lot of
25 opposition to development in the Shipyard, and it's met

1 by a lot of silence, and I really urge you to put the
2 community's need for information above all else. Above
3 Arc's position against development in certain cases,
4 above, above anything, above any of the politics
5 within Bayview, and really just focus on the
6 community's need for information. This site is so
7 complex. It's so nuanced. It would take so long just
8 to get up to speed. I spent three years on the RAB,
9 and with my background and my intense personal
10 interest, I have a hard time understanding some of it,
11 and having Arc on Third Street, where I can walk right
12 in there, I can talk to a scientist who has a great
13 deal of knowledge about the site. I know that Arc has
14 the ability to communicate with the Navy, which is
15 difficult in itself. I really urge you to support this
16 contract. Thank you.

17 MADAM SECRETARY: Espanola Jackson.

18 ESPANOLA JACKSON: Good afternoon again.
19 Espanola Jackson. I want to give some history here. I
20 met Saul through your good friend Geraldine Johnson. I
21 had never heard in my community of environmental
22 racism. I always thought when I saw these young white
23 boys on the boat chasing a whale, they was talking
24 about saving the environment, I thought that the whale
25 was the environment. I did not know it included me

1 until I met Saul. Saul is the main reason why we have,
2 we did have a RAB Board in Bayview-Hunters Point
3 because I was told by the Navy in 1989 about RAB Boards
4 being in Southern California but not in Northern
5 California, and we got the RAB Boards. I've never
6 known Saul to sit on the, one of those committees that
7 was mentioned, but he did serve on the RAB Board in
8 Presidio. I've been knowing Al Norman for quite a
9 long time, but one thing that I do know because of
10 learning about the environment, in 1990, we started
11 Earth Day so people would know where all the toxins
12 were in Bayview-Hunters Point. Because of the
13 closeness, we were getting about, knowing that the
14 Shipyard is a Superfund site and not a down spill
15 site, as you all keep hearing, the Navy said it was a
16 Superfund site, and I do know that we need the correct
17 information and not the lies and the politics that has
18 been played up on my people in Bayview-Hunters Point,
19 and I want to thank you.

20 UNIDENTIFIED MALE SPEAKER: All right.

21 UNIDENTIFIED FEMALE SPEAKER: Yeah.

22 PRESIDENT RICK SWIG: Thank you, Ms. Jackson.

23 MADAM SECRETARY: Deirdre Smith, followed by
24 Al Williams.

25 DEIRDRE SMITH: Good evening, Commissioners.

1 My name is Deirdre Smith, and I'm asking for your
2 support to extend the contract for Arc Ecology. I am
3 a resident and have seen them hire locally. If there
4 were problems with them, they did what they could to
5 correct it. They did not go outside of the community.
6 Arc Ecology is community and community-based. I know a
7 residence, Al, Alice Griffin, and Arc Ecology continued
8 to support Alice Griffin. They have not always done
9 what we expect of them in our eyes, but they have
10 supported the community. We are asking for your
11 support.

12 PRESIDENT RICK SWIG: Thank you.

13 MADAM SECRETARY: Al Williams.

14 AL WILLIAMS: Good afternoon, Commissioners.
15 I'm Al Williams. I really came down originally because
16 of the senior program that was earlier and had not
17 intended to speak, but I thought since my name had been
18 mentioned a couple of times, it would be appropriate
19 that I, that I do stand up and say something. First of
20 all, I'm one of the, along with Scott, and Saul, and
21 Commissioner King, one of the original CAC members. I
22 spent about eight, nine years on the CAC back in the
23 early days, and, you know, I, I have tremendous respect
24 for Saul Bloom, and Arc Ecology, and all the great work
25 that they have done in the community. As was

1 mentioned, however, I'm also a member of the team, the
2 CirclePoint team, that competed with Arc Ecology for
3 this project. As I sat back and listened, something
4 occurred to me. I had an experience not too long ago
5 where I sat on jury duty, and I learned something about
6 being on jury duty. I learned that jury duty wasn't
7 about convicting people of crimes. It was about
8 making sure that innocent people didn't get convicted.
9 It was about the process and the integrity of the
10 process. I heard a lot of good things about Saul, and
11 I agree with everything that was said about Arc
12 Ecology, but I don't think that's the issue here. The
13 fundamental issue here is the integrity of the process.
14 How can you encourage small, disadvantaged businesses
15 to come in and want to participate and be involved in
16 your processes if their foregone conclusions about who
17 is going to be selected or if the, the decisions that
18 are objectively made are somehow overridden? Now,
19 again, as I said, I have tremendous respect for Saul, I
20 have tremendous respect for the people on the team that
21 I'm with. I think we could do a very good and excellent
22 and capable job at presenting this contract, for doing
23 the work that's required under this contract, and I
24 would simply ask that you adhere to the process, you
25 respect the process, and respect and maintain the

1 integrity of the process, all the other good things
2 that are being said aside. Focus on the decision at
3 hand, which is the integrity of the process, not the
4 good work that's been done in the past. Thank you.

5 PRESIDENT RICK SWIG: Thank you.

6 MADAM SECRETARY: Oscar James, and then Saul
7 Bloom.

8 OSCAR JAMES: Thank you. My name is Oscar
9 James, to the Commission. I'm a native resident of
10 Bayview-Hunters Point, born and raised there. My
11 father worked in the shipyard way before I was born.
12 He also worked on the top of the hill when it was a
13 pasture and building those units on, on top of that
14 hill. When they did the fill-in on the Shipyard, some
15 of that hill was pushed down to make the Shipyard
16 larger and, and, and bring it to what it is now, but
17 in '54, '55, I stayed on, on the Hull Street, I moved
18 off Navy Road and I moved on Hull Street, and Hull
19 Street is, is basically the second last street going
20 into the Hunters Point Shipyard, and I seen all that
21 property behind Legolay on the Poole Street side
22 behind the, the first experimental lab, not the, the
23 tall building experimental lab, but the small building
24 experimental lab, being filled from the materials that
25 was being sandblasted and what have you. I, I, I, my

1 father helped dump barrels that came out of that
2 experimental lab, both in the Shipyard and also the
3 Fairline Islands, but what I'm saying is this: I
4 served on the RAB, I served on the Mayor's task force
5 for the, for the closing of the Shipyard, and I served
6 in my community, both on Joint Housing and a whole lot
7 of other committees in our community, and my interest
8 is to make sure that that Shipyard is one hundred
9 percent clean.

10 UNIDENTIFIED MALE SPEAKER: There you go!

11 OSCAR JAMES: I stand here to say I'm
12 opposed to the bridge. There is another alternative.
13 When the Shipyard was there before in the '50's and
14 '60's and even when it closed in 1973, there was three
15 alternatives to move to come out of that Shipyard: one
16 on the Evars Street side and one on the Poole Street
17 side. The Poole Street side going to Highway 101 went
18 down Innes Street, I mean, excuse me, Fitzgerald,
19 running to Highway 101, and we can still use that same,
20 same thing. I ask for Arc Ecology to get that
21 contract. Thank you very much.

22 PRESIDENT RICK SWIG: Thank you, Mr. James.

23 MADAM SECRETARY: Saul Bloom.

24 SAUL BLOOM: Commissioners, I'm stepping up
25 for just a second just to clarify a couple of points

1 and just make two more points. The first thing is, is
2 that there's been enough, there have been a number of
3 comments about Arc Ecology being opposed to the
4 development, and, to us, this is a very strange thing
5 considering how hard we've worked to make sure the
6 development was successful. . We've been involved in
7 doing studies, spending thousands, hundred of thousands
8 of dollars in terms of trying to reach consensus with
9 organizations that will help the project move forward
10 rapidly. We did not invent the fight against the
11 bridge. In 1997, the Sierra Club, meeting with Michael
12 Cohen and Jessie Blout, told him that if there was
13 going to be a bridge across Yosemite Slough, there
14 would be a lawsuit. Both Kofi Bonner and Michael
15 Cohen and, indeed, the Director here said, "We're not
16 tied to this issue. If you can provide a solution to
17 this problem, we would be willing to listen to it."
18 So what our role was was attempting to do some problem
19 solving. We brought the environmental groups to a
20 point where they were willing to look at issues that
21 they hadn't been willing to look at, including some of
22 the take of the park land. Instead, what we got
23 painted as, as an opponent to a bridge which we don't
24 like, but we certainly didn't believe, we sought to
25 find a middle ground to deal with, and that has been our

1 approach through the entire project with the Hunters
2 Point Shipyard. We have been a very, very strong
3 supporter of the development. I was very heavily
4 involved in the passage of Phase 1, the Phase 1
5 Disposition and Development, and we continue to be
6 extremely supportive of economic development in the
7 Bayview, working very, very hard. We put three
8 hundred people to work over the last few years in
9 Bayview-Hunters Point, and we look forward to doing
10 more of that kind of work. We understand what the
11 issues are, this is part of it, but you've heard, as
12 you've said about Michael Cohen, people opposed to the
13 project and people for the project all speaking on our
14 behalf. If there is integrity in this process, and
15 believe me, there's been no impression on our part
16 that we're ever going to be given this contract by any
17 means or this was our business. Thank you.

18 PRESIDENT RICK SWIG: That was two minutes.
19 Thank you very much (unintelligible).

20 SAUL BLOOM: Have a good night.

21 MADAM SECRETARY: I have no other cards, Mr.
22 President.

23 PRESIDENT RICK SWIG: Thank you. Is there
24 anybody else in the audience who wishes to address to
25 address the Commission on this item? Seeing no one and

1 hearing no one, I will close public comment and turn to
2 my fellow Commissioners, beginning with Commissioner
3 King.

4 COMMISSIONER LEROY KING: Well, I want to
5 oppose, speak against giving this contract to Ecology.
6 I've been there since the beginning, was on every board
7 that the, Mister, that always have been there, and
8 every time he was there, he spoke opposite to what the
9 Redevelopment was going on. As far as Lennar and Kofi
10 and all the people that, that wanted to work on, are
11 working on this contract, we support him. He spoke
12 against them. He spoke every time it got up. I
13 opposed him going on there from the beginning, and I
14 spoke of keeping Ecology off of being, being appointed
15 to this job, and what happened is, we had the votes,
16 and they, and Kofi Bonner called me, who is, who, over
17 Lennar, and asked me, "Will you change your vote?
18 Let's bring Ecology on. I need him. We need him."
19 And I changed my vote to put him on. I was opposing
20 him being on there in the first place, and I'm still
21 opposed to it, and then, then Kofi Bonner called me the
22 other day and says, "Well, I see Ecology's up again."
23 I said, "He wouldn't be up if it wasn't for you.
24 You're the one made me change my vote, and that's the
25 only reason I voted, because of you, voted for him."

1 I was opposed with him on the first because him and I
2 go back from a long time when he had his office on
3 (unintelligible) and every time was opposed to basic
4 things to build that Shipyard, the bridge, and many
5 other things that he was opposed to, and today he
6 hasn't changed much different than what he was today --

7 UNIDENTIFIED MALE SPEAKER: (Unintelligible).

8 LEROY KING: -- and I hope this committee
9 vote to turn down this contract of his and they,
10 because he has now talk, he wants to be there, but he
11 talks against Lennar, he talks, everything we do, he's
12 out there in the community, talking against the basic
13 program that we're pushing. He's out there today
14 talking against it, and he talked against it many a
15 time, and then I listened to all of, he had a lot of
16 good people out here talking about, "Wait a minute, but
17 that's not true." He's been out there talking against
18 the basic program that this Redevelopment has been
19 trying to get in that Shipyard, on the bridge and many
20 other things, and I'm hoping that this, our Commission
21 turn down this because I should have not listened to
22 Kofi in the first place and reconsidered to put this
23 guy on in the first place and gave him that first
24 contract because I was opposed to it, and I'm hoping
25 that it's our, we turn this contract down and give

1 somebody else a chance to have this contract.

2 PRESIDENT RICK SWIG: No (unintelligible).

3 COMMISSIONER LEROY KING: Huh?

4 MR. MORALES: You did not move.

5 PRESIDENT RICK SWIG: (Unintelligible).

6 Okay.

7 MR. MORALES: No.

8 COMMISSIONER LEROY KING: Yeah, I moved to
9 turn it down!

10 PRESIDENT RICK SWIG: Okay.

11 COMMISSIONER LEROY KING: Yeah.

12 PRESIDENT RICK SWIG: Any other

13 Commissioners wish to speak on this item? No?

14 COMMISSIONER FRANCEE COVINGTON: I said I'll
15 speak.

16 PRESIDENT RICK SWIG: Oh, you'll speak?

17 Commissioner Covington. I'm sorry.

18 COMMISSIONER FRANCEE COVINGTON: Thank you,
19 Mr. President. I have a great many papers in front of
20 me, and I have a great many fellow citizens in front of
21 me. I have spent quite a bit of time going through
22 these papers. This is the, you know, communications
23 and responses from the EIR, and I had to go into the
24 archives yesterday to get my copy because I remembered
25 that there were a couple of letters related to Arc

1 Ecology's assertion that there was backing, there was
2 the backing of several community organizations for the
3 alternative that Arc Ecology was putting forth for
4 Yosemite Slough, and these organizations wrote letters
5 saying that their names had been used erroneously, that
6 they did not support Arc Ecology, and that they wanted
7 this to be part of the permanent record related to the
8 EIR. Since this was going to be on our docket today,
9 I have received phone calls from press people, other
10 respondents to the RFQ, the RFP. I have gotten calls
11 from, you know, members of the community, and I, I
12 must say, I, I'm just a little bit distressed because,
13 on the one hand, we have this document which we
14 received over the weekend which has the information of
15 all of the respondents. It has their proposals. It
16 has the, the scoring sheets, everything. I'm must
17 showing this to you in case you think that Commissioners
18 are just, or I, as a Commissioner, am just watching
19 Oprah and eating Bon Bons. I am not. I have to go
20 through all of this material and make a, make a
21 decision. The fifty percent that's required for SBE's
22 in hiring is a goal that we have as a Commission, that
23 we have as an agency, but it does not apply to
24 nonprofits. The proposal that was put forth by
25 CirclePoint covers that base far and wide. The fact

1 that a number of people in their communications with
2 me have said, basically, that in order for us to have
3 less dissension and less controversy with all of this
4 development that we have to do over the next thirty
5 years, that it is important that everybody on the team
6 be on the same page, and that Arc Ecology is not only
7 on the same page, but sometimes in a different book.
8 So this is, and, and I'm, I'm not making light of
9 anything. I think that Saul Bloom is a very hard-
10 working person, he's a very knowledgeable person, he
11 has hired other knowledgeable people, but they are
12 not the only knowledgeable and hard-working people in
13 the world. They're not the only knowledgeable and hard-
14 working people in this city. There are some good
15 things in each proposal, and I'm happy to know that
16 each of the five firms, members of each of the five
17 firms, were interviewed. I think that's a very good
18 process. I think that when you gather people in a
19 room, and you have a panel, and they score each
20 candidate, each candidate firm or non-profit, and it is
21 a confidential scoring, so you're not looking to see,
22 'Should I vote a little more? A little less?' that
23 sort of thing, just to make sure that, you know, the
24 team that I favor actually wins, that has to be taken
25 into consideration. CirclePoint did win, and you say

1 it's a statistical dead heat, but, you know, and it's
2 not a baseball game. Indeed, it is not, but you have
3 to ask yourselves, I was a small business owner for
4 many, many years. You have to ask yourself, if you
5 were in a statistical dead heat and were indeed the
6 winner in the photo finish, would you want things to be
7 thrown out? No, we live in a society where the high
8 score usually gets the game, you know? Whether we're
9 talking about the Olympics or we're talking about
10 competition for a job. I'm really sorry that it has
11 taken us so long to get to this point, that there was
12 this hiatus and a void of information over a period of
13 time, which is, is really not the community's fault. I
14 understand, you know, the anxiety about wanting a firm
15 that can hit the ground running. CirclePoint has a
16 deep bench when it comes to this kind of work, as well.
17 You know, they are not a lightweight firm, and there's
18 nothing wrong with being a downtown firm. There's
19 nothing wrong with that. People who have firms
20 downtown, a lot of them also have big hearts, and big
21 brains, and a real need to see things done right by
22 this community. I think you, you do a great disservice
23 to CirclePoint to say that, because they don't live
24 next door, they wouldn't care. That is exactly not
25 the case. You know, you have someone like Al Williams,

1 who was on the CAC for, you know, seven or eight years.
2 Remember, these are non-paid volunteer duties, just as
3 ours are non-paid volunteer duties, and Al Williams is
4 very, very active.,

5 UNIDENTIFIED MALE SPEAKER: (Unintelligible).

6 COMMISSIONER FRANCEE COVINGTON: He was very
7 vocal, and I don't think that anyone would say that he,
8 he isn't a good man. There is a lot that we have to do
9 over the next three decades, and I'm eager to let us
10 begin the work.

11 PRESIDENT RICK SWIG: Thank you,
12 Commissioner. About two or three months ago, we had an
13 item in front of us where there was a, I believe a
14 custodial company that had had a job with the
15 Redevelopment Agency for a long time. They had done a
16 great job, they were popular, they had good community
17 relationships and trust, but we put out an RFP, and
18 this vendor which had served the Agency for a long
19 time, did not come out with the highest score, and I
20 remember saying at that time it's a very, very tough
21 decision when somebody has been hard-working and loyal
22 to go suddenly choose somebody else, but that's part of
23 the process, and that's why we have a process. If we,
24 if we didn't want to do fair evaluations, then we
25 wouldn't have RFP's and RFQ's and we'd just stick with

1 the same people and they'd probably do a real good job
2 and, but it would ruin the, it, it really would ruin
3 the whole reason why we're here, to make sure that we
4 pay attention to our policies and procedure. It's very
5 clear that CirclePoint had more, did, did, did the same
6 thing as the, as the new custodial company. They had a
7 higher score. I, I'm, we need a clarification on, and
8 maybe Mr. Morales can give me the clarification, on
9 the, on the SBE 501C3 issue. Is Arc Ecology, is Arc
10 Ecology meeting the standards of, of. of the hiring
11 practices as a 501C3 versus the SB, SBE ratio of, that,
12 that CirclePoint has? Would you explain? I'm, I'm not
13 thinking it will.

14 MR. MORALES: I, I think you, President Swig,
15 I think your question is, does Arc Ecology as a
16 nonprofit organization qualify as a small business --

17 PRESIDENT RICK SWIG: Yes.

18 MR. MORALES: -- entity? The answer under
19 your policy that you've adopted is no.

20 PRESIDENT RICK SWIG: Right.

21 MR. MORALES: The nonprofit is not
22 considered. I do believe it has been discussed, and
23 debated, at the working group that is the advisory body
24 to this Commission about small business, and to date,
25 there has not been a recommendation to propose a change

1 to include nonprofits, so, although I would note that
2 the city does, in fact, give additional points to
3 nonprofits in their system, but we do not.

4 PRESIDENT RICK SWIG: Okay. So, in fact,
5 CirclePoint scores more points as an, as an SBE
6 provider in this --

7 MR. MORALES: You know, I, I, I'm not sure of
8 the level of the --

9 PRESIDENT RICK SWIG: I believe that, I --

10 MR. MORALES: I can tell you that the SBE --

11 PRESIDENT RICK SWIG: Yeah, I --

12 MR. MORALES: -- is entered into the
13 actual --

14 PRESIDENT RICK SWIG: Okay.

15 MR. MORALES: -- scoring of this evaluation.
16 I'm not, I don't believe it did. I, I believe that
17 they were looking at other considerations. The SBE
18 factor is a, is a preference. It's a, a factor to be
19 considered, but it is not quantified into a certain
20 number of points.

21 PRESIDENT RICK SWIG: All right. All right.
22 Let me ask a black and white question. Are there SBE's
23 involved in the, in the CirclePoint bid? I believe
24 that there are.

25 CHRISTINA GARCIA: Christina Garcia, Contract

1 Compliance Supervisor. I just wanted to clarify,
2 CirclePoint themselves are not an SBE --

3 PRESIDENT RICK SWIG: Right.

4 CHRISTINA GARCIA: -- but they did include
5 three sub-contractors --

6 PRESIDENT RICK SWIG: Right.

7 CHRISTINA GARCIA: -- that are SBE's.

8 PRESIDENT RICK SWIG: Okay. That's, that --

9 CHRISTINA GARCIA: But there were, there are
10 no points awarded for, for that (unintelligible).

11 PRESIDENT RICK SWIG: Right, and, and a
12 501C3 is not an SBE according to our policies and
13 procedures?

14 CHRISTINA GARCIA: Yes.

15 PRESIDENT RICK SWIG: Thank you. That's what
16 I wanted to clarify. I looked at Mr. Norman's list and
17 I, I, I have to share a couple of, on, on this list,
18 there are a couple things that I share your observation
19 on. So, and, and where, where a consultant crosses the
20 line of not being a neutral consultant but being an
21 advocate, and sometimes it felt like the advocacy went
22 against the, the person that hired them, and as a
23 consultant, I have my, my feelings sometimes. I don't
24 agree with all my customers, but I don't bite the hand
25 that feeds me. That's not a good policy, but that's,

1 that's editorial. I really look at the, the score,
2 81.6, 81.4, and I look at the SBE issue, and, and, and
3 also after I, I have to show mine, too, I, I re-read
4 all the, the proposals and, and you have two very fine,
5 very qualified companies, companies, who are, who could
6 do the job and do it well, and I respect relationships,
7 I respect trust, I respect the community voice, but I,
8 what I'm going to do now, because I heard none of my
9 fellow Commissioners move, move, go to move the item,
10 I'm going to ask for a roll call vote on this item. If
11 you would, Madam Secretary? Is that okay?

12 COMMISSIONER LEROY KING: Well, it's, yeah,
13 sure.

14 COMMISSIONER FRANCEE COVINGTON:
15 (Unintelligible), mm-hmm.

16 MR. MORALES: May I?

17 COMMISSIONER FRANCEE COVINGTON: Mm-hmm.

18 COMMISSIONER LEROY KING: Yes, sure.

19 MR. MORALES: Yeah, I didn't hear a second
20 to Commissioner King's motion to reject the Staff
21 recommendation. That's what you would need to --

22 PRESIDENT RICK SWIG: Okay. So, did you move
23 to reject the Staff's recommendation? (Unintelligible)
24 Commissioner (unintelligible) seconded it --

25 UNIDENTIFIED SPEAKER: Seconded.

1 PRESIDENT RICK SWIG: -- so there we go.

2 Okay, so a roll call vote, please, to, to reject

3 Staff's recommendation of Arc Ecology.

4 COMMISSIONER FRANCEE COVINGTON: Commissioner
5 King?

6 COMMISSIONER LEROY KING: Yes.

7 PRESIDENT RICK SWIG: Yes.

8 COMMISSIONER FRANCEE COVINGTON: Vice-
9 President Singh?

10 VICE-PRESIDENT DARSHAN SINGH: Yes.

11 MADAM SECRETARY: Commissioner Covington?
12 President Swig?

13 PRESIDENT RICK SWIG: Yes. So we are
14 unanimous in rejecting Arc Ecology, the, the Staff's
15 recommendation that engaged Arc Ecology for this
16 contract. Commissioner King?

17 COMMISSIONER LEROY KING: Motion to accept
18 the CirclePoint.

19 PRESIDENT RICK SWIG: Okay. Commissioner
20 King would like to make a motion to accept the
21 alternative applicant, CirclePoint, and I, I think I
22 need a second on that, and Commissioner Covington
23 will second it. Once again, a roll call vote, please.

24 MADAM SECRETARY: Commissioner King?

25 COMMISSIONER LEROY KING: Yes.

1 MADAM SECRETARY: Vice-President Singh?

2 VICE-PRESIDENT DARSHAN SINGH: Yes.

3 MADAM SECRETARY: Commissioner Covington?

4 COMMISSIONER FRANCEE COVINGTON: Yes.

5 MADAM SECRETARY: President Swig?

6 PRESIDENT RICK SWIG: Yes. We, we are

7 unanimous in, in selecting CirclePoint as the

8 alternative provider of, of, of services to the

9 Redevelopment Agency. Thank you very much. Next

10 item, please?

11 COMMISSIONER FRANCEE COVINGTON: Mr.

12 President, I'm --

13 PRESIDENT RICK SWIG: Yes, Commissioner

14 Covington?

15 COMMISSIONER FRANCEE COVINGTON: -- just a

16 point or order. I did hear someone in the audience

17 say, "What about public comment?" I, since a

18 substitute motion was provided, do we also need to have

19 public comment at this point?

20 MR. MORALES: Commissioner Covington, public

21 comment was for the item. There was full public

22 comment on the item, which included the possibility of

23 a, a rejection or the adoption of another motion, so

24 public comment was satisfied by what happened. There

25 was no need for additional public comment.

1 COMMISSIONER FRANCEE COVINGTON: All right.

2 Thank you.

3 PRESIDENT RICK SWIG: Thank you.

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Cert
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I, TIMOTHY ROBERT DUVAL, Legal Transcriber, certify;

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That the content was transcribed from audio file;

I further certify that I am not a relative or employee of any attorney of the parties, nor financially interested in the action.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct.

Dated this 18th day of October, 2010.



TIMOTHY ROBERT DUVAL